SENATE

TUESDAY, JUNE 19, 1956

Rev. Theodore Henry Palmquist, D. D., minister, Foundry Methodist Church, Washington, D. C., offered the following prayer:

Eternal Spirit, in whose mind the past and the future meet on this very day, in this very place, we offer our thanks for all who have served their day well and, therefore, the future well. May we never lightly esteem what they obtained at a great price.

Deliver us from the foolishness of impatience, the dictatorship of the nonessential, and the emptiness of the hurried life. Help us always to differ without becoming difficult; to have convictions without becoming dogmatic.

Open our eyes to the evils among us that we so often condemn in others; the failures of genuine democracy in our personal attitude and social institutions; a dangerous pride—"If, drunk with sight of power, we loose wild tongues that have not Thee in awe."

Make us pioneers of a better world, mankind organized for peaceful progress, not for mutual slaughter. And if the way is long—and it will be long—keep our faith strong as was the faith of our fathers.

Bless our homes and our loved ones. Bless the President of the United States of America. May he continue on the road to physical recovery. Come down now by a secret passage and through a private door and enter each life here with wisdom and courage. We ask it all in His name. Amen.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the reading of the Journal of the proceedings of Monday, June 18, 1956, was dispensed with.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 1146. An act to further amend section 20 of the Trading With the Enemy Act, relating to fees of agents, attorneys, and representatives;

S. 2202. An act to authorize the Secretary of the Interior to enter into an additional contract with the Yuma County Water Users' Association with respect to payment of construction charges on the valley division, Yuma reclamation project, Arizona, and for other purposes;

S. 3265. An act to amend title II of the Merchant Marine Act, 1936, as amended, to provide for filing vessel utilization and performance reports by operators of vessels in the foreign commerce of the United States;

S. 3581. An act to increase the retired pay of certain members of the former Lighthouse Service;

S. 3778. An act to amend the act for the protection of walruses; and

S. 3857. An act to clarify section 1103 (d) of title XI (Federal Ship Mortgage Insurance) of the Merchant Marine Act, 1936, as amended.

The message also announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 2512. An act to amend the act of August 27, 1954, so as to provide for the erection of appropriate markers in national cemeteries to honor the memory of certain members of the Armed Forces who died or were killed while serving in such forces; and

S. 3076. An act to provide for a continuing survey and special studies of sickness and disability in the United States, and for periodic reports of the results thereof, and for other purposes.

The message further announced that the House had passed the following bills of the Senate, each with amendments, in which it requested the concurrence of the Senate:

S. 1614. An act to amend the act entitled "An act to fix a reasonable definition and standard of identity of certain dry milk solids," title 21, United States Code, section 321c; and

S. 3149. An act to amend the Civil Aeronautics Act of 1938 in order to permit air carriers to grant free or reduced rate transportation to ministers of religion.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 4652. An act to authorize the Secretary of the Treasury to transfer certain property to the Panama Canal Company, and for other purposes;

H. R. 5147. An act to change the distribution of Coast and Geodetic Survey charts;

H. R. 5712. An act to provide that the United States hold in trust for the Pueblos of Zia and Jemez, a part of the Ojo del Espiritu Santo Grant and a small area of public domain adjacent thereto;

H. R. 5838. An act to provide that payments be made to certain members of the Pine Ridge Sioux Tribe of Indians as reimbursement for damages suffered as the result of the establishment of the Pine Ridge aerial gunnery range;

H. R. 6025. An act to amend the shipping laws, to prohibit the operation in the coastwise trade of vessels rebuilt outside the United States, and for other purposes;

H. R. 6245. An act to authorize the Panama Canal Company to convey to the Department of State an improved site in Colon, Republic of Panama;

H. R. 6501. An act to amend the act of July 17, 1914, to permit the disposal of certain reserve mineral deposits under the mining laws of the United States;

H. R. 6850. An act to create an academic advisory board for the United States Merchant Marine Academy;

H. R. 7811. An act to amend the Canal Zone Code by the addition of provisions relative to the registration of architects and professional engineers, and the regulation of their practice;

H. R. 9137. An act to waive section 142, of title 28, United States Code, with respect to the United States District Court for the western district of North Carolina holding court at Bryson City, N. C.;

H. R. 9500. An act to continue the effectiveness of the Missing Persons Act, as extended, until July 1, 1957;

H. R. 9742. An act to provide for the protection of the Okefenokee National Refuge, Georgia, against damage from fire and drought;

H. R. 9828. An act to transfer 600 acres of public domain to the Kanosh Band of Indians, Utah;

H. R. 9974. An act to amend section 1 of the act entitled "An act to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation in the State of Wisconsin," approved March 28, 1908, as amended;

H. R. 10504. An act to allow a homesteader settling on unsurveyed public land in Alaska to make single final proof prior to survey of the lands;

H. R. 10535. An act to include the present area of Zion National Monument within Zion National Park, in the State of Utah, and for other purposes;

H. R. 10946. An act to provide for the disposition of surplus personal property to the Territorial government of Alaska until December 31, 1958;

H. R. 10949. An act to amend section 633 of title 28, United States Code, prescribing fees of United States commissioners;

H. R. 10964. An act to provide for municipal use of storage water in Benbrook Dam, Tex.;

H. R. 11010. An act creating the Muscatine Bridge Commission and authorizing said Commission and its successors to acquire by purchase or condemnation and to construct, maintain, and operate a bridge or bridges across the Mississippi River at or near the city of Muscatine, Iowa, and the town of Drury, Ill.;

H. R. 11027. An act to amend title VII of the Merchant Marine Act, 1936, as amended, to provide for experimental operation and testing of vessels owned by the United States;

H. R. 11127. An act to clarify the law relating to the grant of certain public lands to the States for school purposes;

H. R. 11402. An act to extend the existing application of the Temporary Promotion Act of 1941, as amended, to the Coast Guard, and for other purposes;

H. R. 11499. An act to amend the Texas City Disaster Claims Act;

H. R. 11522. An act to implement section 25 (b) of the Organic Act of Guam by carrying out the recommendations of the Commission on the Application of Federal Laws to Guam, and for other purposes;

H. R. 11558. An act to relinquish any right, title, and interest which the United States may have in and to certain land located in Forrest County, Miss., in order to clear the title to such land; and

H. R. 11611. An act to provide for the establishment of the Pea Ridge National Military Park, in the State of Arkansas.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the President pro tempore:

H. R. 1410. An act for the relief of Giovanna Scano;

H. R. 2709. An act for the relief of the estate of Rene Weil;

H. R. 3373. An act for the relief of Mrs. Zella K. Thissell;

H. R. 5453. An act for the relief of the estate of Robert Bradford Bickerstaff;

H. R. 6143. An act to amend the Internal Revenue Codes of 1939 and 1954, and for other purposes;

H. R. 6742. An act for the relief of Rumiko Fujiki Kirkpatrick;

H. R. 6955. An act for the relief of Inna Hokker Grade;

H. R. 7373. An act for the relief of Eugene G. Aretz;

H. R. 8041. An act for the relief of Clyde R. Stevens;

H. R. 8867. An act for the relief of the estate of F. M. Bryson;

H. R. 9285. An act to amend section 14 (b) of the Federal Reserve Act, so as to extend for 2 additional years the authority of Federal Reserve banks to purchase United States obligations directly from the Treasury;

H. R. 11205. An act to confer jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claims of Roy Cowan and others arising by reason of the flooding of land in the vicinity of Lake Alice, N. Dak.; and

H. J. Res. 609. Joint resolution for the relief of certain aliens.

HOUSE BILLS REFERRED OR PLACED ON CALENDAR

The following bills were severally read twice by their titles and referred or placed on the calendar, as indicated:

H. R. 4652. An act to authorize the Secretary of the Treasury to transfer certain property to the Panama Canal Company, and for other purposes;

H. R. 5147. An act to change the distribution of Coast and Geodetic Survey charts;

H. R. 6025. An act to amend the shipping laws, to prohibit the operation in the coastwise trade of vessels rebuilt outside the United States, and for other purposes;

H. R. 6245. An act to authorize the Panama Canal Company to convey to the Department of State an improved site in Colon, Republic of Panama;

H. R. 6850. An act to create an academic advisory board for the United States Merchant Marine Academy;

H. R. 7811. An act to amend the Canal Zone Code by the addition of provisions relative to the registration of architects and professional engineers, and the regulation of their practice;

H. R. 9742. An act to provide for the protection of the Okefenokee National Wildlife Refuge, Ga., against damage from fire and drought;

H. R. 11027. An act to amend title VII of the Merchant Marine Act, 1936, as amended, to provide for experimental operation and testing of vessels owned by the United States; and

H. R. 11402. An act to extend the existing application of the Temporary Promotion Act of 1941, as amended, to the Coast Guard, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H. R. 5712. An act to provide that the United States hold in trust for the Pueblos of Zia and Jemez a part of the Ojo del Espiritu Santo Grant and a small area of public domain adjacent thereto; placed on the calendar.

H. R. 5838. An act to provide that payments be made to certain members of the Pine Ridge Sioux Tribe of Indians as reimbursement for damages suffered as the result of the establishment of the Pine Ridge aerial gunnery range;

H. R. 6501. An act to amend the act of July 17, 1914, to permit the disposal of certain reserve mineral deposits under the mining laws of the United States;

H. R. 9828. An act to transfer 600 acres of public domain to the Kanosh Band of Indians, Utah;

H. R. 9974. An act to amend section 1 of the act entitled "An act to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation in the State of Wisconsin," approved March 28, 1908, as amended;

H. R. 10504. An act to allow a homesteader settling on unsurveyed public land in Alaska to make single final proof prior to survey of the lands;

H. R. 10535. An act to include the present area of Zion National Monument within Zion National Park, in the State of Utah, and for other purposes;

H. R. 10946. An act to provide for the disposition of surplus personal property to the Territorial government of Alaska until December 31, 1958;

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H. R. 11522. An act to implement section 25 (b) of the Organic Act of Guam by carrying out the recommendations of the Commission on the Application of Federal Laws to Guam, and for other purposes;

H. R. 11558. An act to relinquish any right, title, and interest which the United States may have in and to certain land located in Forrest County, Miss., in order to clear the title to such land; and

H. R. 11611. An act to provide for the establishment of the Pea Ridge National Military Park, in the State of Arkansas; to the Committee on Interior and Insular Affairs.

H. R. 9137. An act to waive section 142, of title 28, United States Code, with respect to the United States District Court for the Western District of North Carolina holding court at Bryson City, N. C.;

H. R. 10949. An act to amend section 633 of title 28, United States Code, prescribing fees of United States commissioners; and

H. R. 11499. An act to amend the Texas City Disaster Claims Act; to the Committee on the Judiciary.

H. R. 9500. An act to continue the effectiveness of the Missing Persons Act, as extended, until July 1, 1957; to the Committee on Armed Services.

H. R. 10964. An act to provide for municipal use of storage water in Benbrook Dam, Tex.;

H. R. 11010. An act creating the Muscatine Bridge Commission and authorizing said Commission and its successors to acquire by purchase or condemnation and to construct, maintain, and operate a bridge or bridges across the Mississippi River at or near the city of Muscatine, Iowa, and the town of Drury, Ill.; to the Committee on Public Works.

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. JOHNSON of Texas, and by unanimous consent, the Permanent Subcommittee on Investigations of the Committee on Government Operations and the Subcommittee on the Air Force of the Committee on Armed Services were authorized to meet during the session of the Senate today.

LIMITATION OF DEBATE DURING MORNING HOUR

Mr. JOHNSON of Texas. Mr. President, under the rule, there will be the usual morning hour. I ask unanimous consent that statements made in connection with the transaction of the routine morning business be limited to 2 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of the executive business, to act on the nomination on the Executive Calendar.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORTS OF A COMMITTEE

The following favorable reports of nominations were submitted:

By Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service:

One hundred and forty-nine postmasters.

The PRESIDENT pro tempore. If there be no further reports of committees, the nomination on the Executive Calendar will be stated.

ATOMIC ENERGY COMMISSION

The Chief Clerk read the nomination of Willard Frank Libby, of Illinois, to be a member of the Atomic Energy Commission.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. JOHNSON of Texas. I ask that the President be notified immediately of the nomination today confirmed.

The PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

Mr. JOHNSON of Texas. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

EXTENSION OF TIME FOR COMMISSION ON GOVERNMENT SECURITY TO FILE FINAL REPORT

A letter from the Chairman, Commission on Government Security, Washington, D. C., transmitting a draft of proposed legislation to extend the time for that Commission to file its final report (with an accompanying paper); to the Committee on Government Operations.

AMENDMENT OF CODE, RELATING TO FEES OF UNITED STATES MARSHALS

A letter from the Attorney General, transmitting a draft of proposed legislation to amend title 28, United States Code, with respect to fees of United States marshals (with an accompanying paper); to the Committee on the Judiciary.

REPORT ON CONSERVATION AND DEVELOPMENT OF WATER AND LAND RESOURCES, ARKANSAS-WHITE-RED RIVER BASINS

A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting, pursuant to law, a report on the conservation and development of the water and related land resources of the Arkansas-White-Red River Basins (with accompanying papers); to the Committee on Public Works.

REPORT ON LAND AND WATER RESOURCES, NEW ENGLAND-NEW YORK REGION

A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting, pursuant to law, a report on the land and water resources of the New England-New York region (with accompanying papers); to the Committee on Public Works.

SOCIAL SECURITY ACT AMENDMENTS OF 1956—RESOLUTION

The PRESIDENT pro tempore laid before the Senate a resolution adopted by the Board of Directors of the Chamber of Commerce of the United States, protesting against the enactment of House bill 7225, the Social Security Act amendments of 1956, which was ordered to lie on the table.

RESOLUTIONS OF AMERICAN PUBLIC POWER ASSOCIATION

Mr. LANGER. Mr. President, I ask unanimous consent to have printed in the RECORD, resolutions adopted by the American Public Power Association, at their 13th annual convention, in Los Angeles, Calif., on April 26, 1956.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTIONS OF AMERICAN PUBLIC POWER ASSOCIATION ADOPTED AT 13TH ANNUAL CONVENTION, APRIL 26, 1956, LOS ANGELES, CALIF.

RESOLUTION 1

Supporting application of Administrative Procedure Act to Federal power marketing

Whereas the Federal Administrative Procedure Act of 1947 is designed to protect the public from arbitrary conduct of Federal officers and agencies and provides for the right of public notice, public hearings, and court review; and

Whereas the sale of federally generated electric power is exempt from the protection of the Administrative Procedure Act; and

Whereas the Federal Power Commission and the Department of the Interior have in numerous instances made arbitrary decisions from which there has been available no recourse for hearings or court review: Now, therefore, be it

Resolved, That the American Public Power Association urges Congress to amend the Administrative Procedure Act so as to make its protective features applicable to the marketing of electricity by the Department of the Interior and the setting of rates and cost allocations by the Federal Power Commission.

RESOLUTION 2

Supporting reimbursement for relocation of utility facilities

Whereas a continuing program of Federal and State highway building makes it necessary to remove and relocate consumer-owned electric system facilities; and

Whereas the costs of moving and changing such facilities have been in the past absorbed by consumer-owned agencies involved; and

Whereas a hardship is often placed upon the consumer-owned agencies in absorbing these costs: Now, therefore, be it

Resolved, That the American Public Power Association recommends that the Congress enact legislation so that funds are provided to reimburse the consumer-owned electric systems for the expense of relocation of their facilities, when such action is made necessary by the Federal-aid highway building program.

RESOLUTION 3

Supporting integration of Trinity River Division in Central Valley project

Whereas it is an established and fundamental policy of the American Public Power Association to encourage financially feasible multiple-purpose development of water resources by the United States and other public agencies and to make electric power incidental thereto available at the lowest possible cost to the ultimate consumer and by means of public distribution systems; and

Whereas the Central Valley project has been operating since 1944 and includes power producing features at Shasta, Keswick, Folsom, and Nimbus Dams, including an extensive transmission system for wholesale marketing of power, and the Trinity River division has been added to the project and authorized by the Congress in accordance with the act of August 12, 1955 (69 Stat. 719), and construction of the authorized works is now underway; and

Whereas the authorizing act requires the Secretary of the Interior to report to the Congress on the possibility of selling the falling water available from the Trinity development to a non-Federal agency; and

Whereas it now appears certain that the Pacific Gas & Electric Co., the second largest electric utility in the United States which has a virtual monopoly on the generating and distribution of power in northern and central California, is the only non-Federal agency in a position to buy Trinity falling water, and is the only agency which has made an offer to purchase said falling water; and

Whereas the sale of Trinity falling water to the Pacific Gas & Electric Co. would tend to further strengthen that company's monopoly by removing from competition a large block of power which under existing reclamation law would be available for sale to numerous public agencies in the area; and

Whereas, the sale of Trinity falling water to the Pacific Gas & Electric Co. would deprive the ultimate consumer of lower power rates in a manner contrary to the policies and principles of this association; and

Whereas the sale of Trinity falling water to the Pacific Gas & Electric Co. would have the effect of handing over to a private utility for private gain a natural resource of tremendous value which belongs to all of the people; and

Whereas the addition of Trinity River power output to the Central Valley project will provide a maximum amount of low-cost power for operation of project irrigation pumping plants with attendant benefits to the farmers of the Central Valley: Now, therefore, be it

Resolved, That the American Public Power Association, in recognition of its longstanding interest in Federal resources development and the importance of making power available to the ultimate consumer at the lowest possible cost, does hereby respectfully request the Congress of the United States to reject any proposal by the Secretary of the Interior and the Pacific Gas & Electric Co. for the sale of Trinity falling water; and be it further

Resolved, That the Congress of the United States be requested to direct the Secretary of the Interior to integrate the Trinity power supplies with power now being developed at Shasta Dam and by other features of the Central Valley project to achieve the maximum efficiency of the project power system and direct the Secretary to construct all generation and transmission facilities necessary to make Central Valley project power available in accordance with the well-established and time-proven preference policies under the existing Reclamation Law.

RESOLUTION 4

Endorsing self-financing plans for TVA

Whereas the Congress, through the establishment of the Tennessee Valley Authority, has caused the United States Government to be the source of power supply for the Tennessee Valley service area, including the huge needs of the United States Government itself for large defense power in this area, presently requiring in excess of 50 percent of the entire output of the TVA, with resulting large benefits in the cost of electric power to the Government for such national defense power needs, and has heretofore made annual appropriations for the purpose of providing needed generating and transmission power facilities; and

Whereas, in addition to the huge savings in the United States Government power costs for its national-defense power needs, a return to the United States Government averaging 4 percent has been realized upon such appropriations, which, under an act of Congress, are being repaid by TVA to the Government upon a schedule imposed by the Congress, with said payments made by TVA as of now being ahead of such schedule; and

Whereas the TVA has submitted to the Bureau of the Budget a proposed plan whereby TVA can issue its own revenue bonds for such power generating and transmission needs, not to be a direct Government obligation, but only one of the TVA itself; and

Whereas such proposed self-financing plans for TVA by the means of bonds have been embodied in the so-called Kerr and Davis-Jones bills now being considered by the United States Senate and Congress of the Government; and

Whereas the said Kerr and Davis-Jones bills have had widespread approval throughout the TVA service area, and particularly by the executive board of the Tennessee Valley Public Power Association, a group 95 percent representative of the 150 municipalities and cooperatives which distribute TVA power in the area; and

Whereas it is of the utmost importance to the power needs of the Tennessee Valley service area that prompt action be had by the Senate and Congress upon the said Kerr and Davis-Jones bills providing self-financing for the TVA: Now, therefore, be it

Resolved, That the American Public Power Association, whose officials have testified urging the passage of these bills before the appropriate congressional committees, hereby urges that the Senate and Congress speedily enact the bills providing for self-financing plans of the TVA into law.

RESOLUTION 5

Opposing the weakening of the Holding Company Act

Whereas Senate bill 2643 and House bills 6294 and 7554 have been introduced in the United States Senate and House of Representatives, respectively, to amend the Public Utility Holding Company Act of 1935 to remove automatically from the jurisdiction of the Securities and Exchange Commission under that act (1) atomic reactor companies which produce only the heat in connection with the generation of electricity, and (2) jointly sponsored conventional or atomic power projects which meet certain specified standards; and

Whereas the American Public Power Association has a direct interest in the cost and availability of power produced by privately owned utilities because a sizable proportion of its members purchase such power; and

Whereas the American Public Power Association is concerned about any weakening of Federal regulation of the privately owned electric utility industry that could lead to conditions in the industry inimical to the interests of the small locally owned utilities; and

Whereas Federal regulation under the Holding Company Act has benefited the utility industry, consumers, investors, and general public, and has not hindered the development of conventional or atomic power projects; and

Whereas the American Public Power Association agrees with the Securities and Exchange Commission that, in view of provisions in existing law for exemptions which are in the public interest, S. 2643 and H. R. 6294 propose exemptions which are unnecessary to the growth of the private electric utility industry and the prompt undertaking

of privately financed atomic power development projects; and

Whereas the proposed exemptions would reduce SEC regulation of such matters as securities acquisitions by holding companies, political contributions, and financial soundness of holding-company securities, seriously hamper effective rate regulation by State and Federal agencies, and open the door to the revival of widespread abuses and defeat the purposes of achieving abundant low-cost power, both conventional and nuclear: Now, therefore, be it

Resolved, That the American Public Power Association opposes passage of S. 2643 and H. R. 6294 and any legislation proposing similar blanket exemptions to the provisions of the Public Utility Holding Company Act.

RESOLUTION 6

Favoring construction of Fort Randall-Grand Island 230-kilovolt transmission line

Whereas the State of Nebraska, an all public power State, is primarily engaged in agricultural pursuits and has an abundant natural resource in its extensive ground water supply; and

Whereas the full and beneficial development of this natural resource is dependent upon the availability of ample quantities of low cost electric power for pump irrigation purposes; and

Whereas the Missouri River Basin project on the main stem of the Missouri River will soon have available large quantities of secondary power during the summer months, which power will not be available during other months of the year and for which power there is no foreseeable market except at dump rates unless such power is utilized for pump irrigation purposes during said summer months; and

Whereas, the utilization of said secondary or seasonal power for irrigation purposes will result in a twofold benefit—(1) it will conserve and put to beneficial use for agricultural production the abundant supply of ground water in Nebraska now largely unused, and (2) it will provide a ready market at reasonable rates for large blocks of power produced by the Government to help repay the cost of the Missouri Basin project; and

Whereas the Bureau of the Budget has recommended budgetary funds for the construction of a 230-kilovolt transmission line by the Bureau of Reclamation from Fort Randall Power Plant to Grand Island, Nebr., and the President has recommended to the Congress that such line be constructed, thereby making it possible to achieve the aforesaid purposes: Now, therefore, be it

Resolved, That the American Public Power Association favors the construction of said transmission line by the Bureau of Reclamation and urges the Congress to authorize such construction.

RESOLUTION 7

Supporting Columbia River Development Corporation

Whereas the rate of Federal power investment in the Pacific Northwest through the appropriations process has not been sufficient to meet the net unsatisfied power demands; and

Whereas the Northwest Public Power Association and other Pacific Northwest groups have prepared a draft of legislation to convert the Bonneville Power Administration into the Columbia River Development Corporation with power to issue electric-revenue bonds; and

Whereas the Northwest Public Power Association has endorsed this proposed legislation subject to refinements in another draft which is now in preparation: Now, therefore, be it

Resolved, That the American Public Power Association endorses the principle of the provision for issuance of electric revenue bonds in order to meet public utility responsibility for power development in the Pacific Northwest.

RESOLUTION 8

Supporting Federal construction of John Day Dam

Whereas the Pacific Northwest faces a power shortage starting in 1960; and

Whereas the million-kilowatt John Day Dam and navigation locks has been authorized by Congress and is now in the final planning stage preparatory to construction: Now, therefore, be it

Resolved, That the American Public Power Association endorses the earliest feasible start of Federal construction of the John Day Dam.

RESOLUTION 9

Supporting high Hells Canyon Dam

Whereas the Hells Canyon issue, like the Muscle Shoals struggle of 30 years ago, involves the right of the people to develop their rivers for the greatest good of the general public; and

Whereas the alternative plan of the Idaho Power Co. would develop only about 60 percent of the water-power potential in the Hells Canyon reach of the Snake River and would sacrifice virtually all the flood-control benefits; and

Whereas the high Hells Canyon Dam would provide maximum, comprehensive utilization for flood control, river regulation, and power; and

Whereas the Hells Canyon issue involves principles of conservation applicable to many river basins such that a surrender here would set a dangerous precedent for waste of resources; Now, therefore, be it

Resolved, That the American Public Power Association reaffirms its endorsement of Federal construction of Hells Canyon Dam.

RESOLUTION 10

Opposing private monopoly electric utility propaganda activities

Whereas the last year has seen consumer-owned electric systems increasingly placed under propaganda attack by the private monopoly electric utility corporations; and

Whereas such intensified propaganda attacks by means of newspaper, magazine, radio, television and other forms of advertising are for the purpose of poisoning the public mind as regards their right, and the feasibility, of owning and operating consumer-owned electric utilities, and thus are contrary to the best public interest, and the right of the public mind to decide such questions upon the basis of the true facts; and

Whereas such private monopoly electric utility propaganda attacks are being carried out and financed by the expenditures of millions of dollars (admittedly totaling over $14 million in the period 1941–52) all extracted from ratepayers as a part of their cost of service from private monopoly electric utilities; and

Whereas such propaganda activities of the private monopoly electric utilities seriously contaminate the public mind, the democratic procedures of government and are a travesty upon the right of access to public means of mass communication and public education; Now, therefore, be it

Resolved, That the American Public Power Association urges the Congress (1) to investigate and place upon the public record these propaganda, lobbying and oftentimes purely selfish and political activities of the private monopoly electric utility corporations, (2) to enact legislation that will prohibit the use of money obtained from electric rates charged consumers for the purposes of propaganda and lobbying, and (3) to strengthen the Public Utility Holding Company Act so as to protect ratepayers of such corporations from the use of money paid to them for such purposes.

RESOLUTION 11

Niagara Falls

Whereas Congress is considering various bills to permit increased use of the power potential of Niagara Falls to the extent of 1,300,000 kilowatts; and

Whereas several proposals would turn over this valuable resource to private monopoly, or otherwise would not make adequate provision for insuring for the electric consumers of the area the benefits of low cost power; and

Whereas the area which would be served by the Niagara Falls power now has electric rates which are among the highest in the United States; and

Whereas adequate provisions for development by a public agency, together with marketing of the power under the traditional public and cooperative agency preference conditions, are contained at the present time only in Senate bill 1823 and the companion House bill 5878: Now, therefore, be it

Resolved, That the American Public Power Association endorses S. 1823 and H. R. 5878 and urges their enactment by the Congress.

RESOLUTION 12

Opposing fast tax writeoffs for private utilities

Whereas certificates of necessity for rapid amortization for tax purposes of new facilities issued to private power companies have, in effect, resulted in interest-free loans to private monopoly electric corporations exceeding $1,200,000,000 with ultimate benefits to these corporations in excess of $4 billion; and

Whereas these certificates issued under section 124A of the Internal Revenue Code of 1951 and under section 168 of the Internal Revenue Code of 1954 will result in benefits to the private monopoly electric corporations exceeding all Federal investment in power dams, an investment which will be repaid together with interest to the United States Treasury; and

Whereas the benefits of these certificates under Opinion 264 of the Federal Power Commission adopted in December 1953, and under similar decisions of various State regulatory commissions, flow almost entirely to private utility stockholders; and

Whereas similar and comparable benefits to private power monopolies can result from the liberalized depreciation provisions of section 167 of the Internal Revenue Code of 1954; and

Whereas the presiding examiner of the Federal Power Commission in a recommended decision filed February 28 in the matters of Amere Gas Utilities Co. and others (Docket No. G–6358) has held relying in part upon aforementioned Opinion No. 264, that utilities may treat the benefits of liberalized depreciation in a similar manner to those resulting from rapid amortization; and

Whereas if this decision is adopted by the Commission and its findings and conclusions are made applicable to electric utilities, private power companies will be able to enjoy benefits from liberalized depreciation such as those they now receive from rapid amortization without either applying for certificates or being limited to a specified percentage of the costs of projects: Now, therefore, be it

Resolved, That the American Public Power Association:

1. Recommends that the Congress amend the Internal Revenue Act of 1954 to provide that section 167 relating to liberalized depreciation and section 168 relating to accelerated amortization shall not apply to regulated utility monopolies; and

2. Urges the Federal Power Commission to reconsider and reverse Opinion No. 264 relating to treatment of benefits received by electric utilities under certificates of necessity for rapid amortization; and

3. Asks the Federal Power Commission to deny and reverse the recommended decision of the presiding examiner in the matters of Amere Gas Utilities Co. and others (Docket No. G–6358) filed February 28, especially as

the findings and conclusions of said decision might be related to electric utilities; and

4. Urges the Federal Power Commission and all State regulatory commissions having jurisdiction over electric utilities to prescribe procedures to insure that the benefits accruing to private power companies under certificates of necessity for rapid amortization or from the use of liberalized depreciation will be passed on to electric consumers.

RESOLUTION 13

Broadening revenue bond market

Whereas a bill (S. 2290) would authorize national banks to deal in and underwrite certain types of revenue bonds; and

Whereas the passage of such a bill would greatly widen the market for revenue bonds through the participation of national banks in this type of financing: Now, therefore, be it

Resolved, That the American Public Power Association go on record as favoring passage of such a bill: *Provided*, That the necessary safeguards are included to protect the public interest, and authorizing its general manager to take the necessary action to assist in obtaining such passage.

RESOLUTION 14

Small atomic power reactors

Whereas the American Public Power Association at its annual meeting May 3–5, 1955, adopted a resolution in the interest of the 2,300 publicly owned and 1,000 rural cooperative electric systems in the United States, most of which are relatively small, "urging upon the Atomic Energy Commission the importance of developing low-cost atomic reactors to produce electric power economically for units as small as 5,000 kilowatts"; and

Whereas the Atomic Energy Commission on February 1, 1956, received six proposals from publicly owned and rural cooperative electric systems to build small atomic power plants with Government aid; and

Whereas the prompt construction and operation of these demonstration units is a most important factor in the development of commercially practicable small atomic units for domestic use and especially for use in the nations of the free world: Now, therefore, be it

Resolved, That the American Public Power Association hereby expresses its appreciation to the Atomic Energy Commission for its recent action in receiving proposals for small demonstration units; and be it further

Resolved, That the association requests the earliest possible favorable action by the Atomic Energy Commission in concluding contracts for the construction and operation of these units.

RESOLUTION 15

Speeding the demonstration power-reactor program

Whereas it is apparent to all that the demonstration full-scale power-reactor program is lagging behind desirable schedules due among other reasons to:

1. The difficulty of forecasting and guaranteeing true costs;

2. The expectation or, even certainty, that the costs of electric generation in the first round of demonstration reactors of all capacities will greatly exceed the cost of power produced from conventional fuels; and

3. The failure so far to secure adequate third party risk insurance at reasonable cost; and

Whereas too great emphasis upon public utilities assuming high risks places an undue burden upon their customers, and the assumption of high risks by the individual manufacturers narrows competition, tending toward monopoly by the few largest manufacturers: Now, therefore, be it

Resolved, That the American Public Power Association hereby urges the Atomic Energy Commission and the Joint Committee on Atomic Energy of the Congress to speed the demonstration power-reactor program and endorses a policy of having the United States Government (1) shoulder a greater part of the risks involved in the construction and operation of reactors in both the large and small power demonstration reactor programs, with full public disclosure of the Federal contribution and tax benefits provided, and (2) itself undertake in the public interest the construction and operation of atomic powerplants of each representative type in both the large and small demonstration reactor programs.

RESOLUTION 16

Importation of residual fuel oil

Whereas many of the member systems of the American Public Power Association use large quantities of residual fuel oil for generating electric power; and

Whereas the cost of generating electric energy in such cases is directly affected by the cost of such fuel; and

Whereas restrictive measures have been proposed in the Office of Defense Mobilization which would severely limit the imports of such fuel, thereby adversely affecting the price and the quantity of fuel oil available: Now, therefore, be it

Resolved, That the American Public Power Association opposes any restrictive measures which would limit in any manner the importation of residual fuel oil.

RESOLUTION 17

Endorsing Federal Power Commission regulation of natural gas

Whereas a large number of the member utilities of the American Public Power Association use natural gas as a fuel in their generating stations; and

Whereas the United States Supreme Court has ruled that the Federal Power Commission has jurisdiction, under the Natural Gas Act, to regulate wholesale sales of independent producers and gatherers of gas to interstate pipelines: Now, therefore, be it

Resolved, That the American Public Power Association opposes any legislation which would exempt from Federal Power Commission regulation the wholesale sales of natural gas to interstate pipelines by independent producers and gatherers.

RESOLUTION 18

Transfer of power transmission facilities in the Pacific Southwest

Whereas the American Public Power Association consistently has endorsed the maximum amount of local control and home rule; and

Whereas in several States of the Pacific Southwest, State owned and administered power authorities and local publicly owned agencies have been established in order that the public may receive the benefits of low-cost power; and

Whereas in the service areas of some of such State power authorities and publicly owned agencies, the Federal Government owns and operates power transmission facilities which constitute the base on which the load growth of the area must depend; and

Whereas ownership and operation of such transmission facilities by the State power authority and publicly owned agencies would enable more economical operation of the facilities and enable expansion of lines and equipment to meet the growing needs of the area without necessitating appropriations by the Congress: Now, therefore, be it

Resolved, That the American Public Power Association favors transfer of the ownership and operation of Federally owned power transmission facilities to a state power authority or a publicly owned agency in those cases in the Pacific Southwest where such transfer will be in the best interests of the power users served by such facilities, provided: (1) that the preference rights of publicly owned electric utilities and cooperatives in the service area shall not be adversely affected by such transfer; and (2) that the Federal Government shall be paid the full amount of any remaining unamortized construction cost of such facilities.

RESOLUTION 19

Commendation of officers and staff of APPA

Whereas the officers and Board of Directors of the American Public Power Association have during the year provided effective leadership in formulating and carrying out the policies of the association and by their actions have advanced the influence and prestige of the APPA and further ably represented the interests of our respective membership and the electrical consumers whom we represent; and

Whereas General Manager Alex Radin and the staff of the APPA have during the year most efficiently carried forward the program and policies of the association, ably represented its position when called upon, and provided to the membership efficient and helpful services upon its many problems: Now, therefore, be it

Resolved, That the American Public Power Association expresses its appreciation to the officers of the association, to General Manager Alex Radin and the staff for their valuable leadership and excellent services.

RESOLUTION 20

President William E. Hooper

Whereas William E. Hooper, general manager, City Power, Water & Gas Department, Sheffield, Ala., has served as president of the American Public Power Association for the year 1955–56; and

Whereas President Hooper has worked untiringly in the interests of the association; and

Whereas there have been outstanding achievements of the association during the past year, as indicated by the inauguration of the Atomic Energy Service, the publication of the Public Relations Manual, the sponsorship of the Accounting and Finance Workshop, the continued growth in membership, and the inauguration and expansion of many other services; and

Whereas these achievements are indicative of the wise counsel and excellent leadership displayed by President Hooper: Now, therefore, be it

Resolved, That the American Public Power Association expresses its wholehearted appreciation to President Hooper for his great services as president of the association during the year 1955–56.

RESOLUTION 21

Appreciation to convention hosts

Whereas the California Municipal Utilities Association, and particularly the municipal electric utilities of Los Angeles, Pasadena, Burbank, and Glendale, have been hosts to the 13th annual convention of the American Public Power Association; and

Whereas these hosts arranged an excellent and outstanding program of entertainment for convention delegates and their wives; and

Whereas the general arrangements committee, headed by Bradley Cozzens of the Department of Water and Power of Los Angeles, has been exceptionally helpful in handling such arrangements as registration, hospitality, exhibits, inspection trips, transportation, entertainment, publicity, and special events; and

Whereas, the members of the American Public Power Association have thoroughly enjoyed this most gracious hospitality accorded by their hosts: Now, therefore, be it

Resolved, That the American Public Power Association expresses its wholehearted appreciation to the general arrangements committee, to the municipal electric utilities of

Los Angeles, Pasadena, Burbank, and Glendale, to the entire California Municipal Utilities Association, and to the Los Angeles City Council which gave valued financial assistance, for their hospitality and great assistance in making this one of the most outstanding conventions ever held by the American Public Power Association.

RESOLUTION 22

Alaska waterpower

Whereas the development of Alaska is retarded by electric power shortages and high electric rates; and

Whereas Congress last year enacted legislation authorizing surveys of Alaska waterpower resources: Now, therefore, be it

Resolved, That the American Public Power Association expresses appreciation to Congress for this legislation, and that we support adequate appropriations for these waterpower surveys including the $200,000 recommended in the present Federal budget.

RESOLUTION 23

Condemning attacks on Southwestern Power Administration

Whereas the electrical capacity available through the Southwestern Power Administration has been of great benefit not only to the preference customers but also, to a greater extent, to the private power companies in Missouri, Arkansas, Oklahoma, Texas, and adjacent areas; and

Whereas the private power companies have not been satisfied with a major share of those benefits and have conducted a persistent and aggressive campaign to obtain, exclusively for themselves, control of the entire capacity of the SPA system; and

Whereas the private power companies have been aided in their campaign by certain antipublic power policies of the Interior Department and the attempts of some of the Interior Department officials to nullify the preference rights of municipalities and cooperatives; and

Whereas every avenue and subterfuge has been used to gain this end, even to the extent of trying to force certain power cooperatives to allow their preference rights to be used to permit the sale of a large block of capacity (all that was left unsold) to the private power companies; and

Whereas the latest attack has centered around an attempt to increase rates to the preference customers through the device of reallocation of construction costs; and

Whereas failure to block these attempts to undermine SPA would result in great damage to the electrical consumers in the area, would severely handicap the preference customers and nullify their legal rights, and would constitute an improper diversion of power, belonging to all the people, to a few private power corporations; and

Whereas various committees of Congress have from time to time delved into parts of this situation and legislation is now pending to delay the rate increases: Now, therefore, be it

Resolved, That the American Public Power Association:

1. Commends Congress for being alert to this attempt to convert public projects to the benefit of the stockholders of a few private power corporations;

2. Urges Congress to approve the pending legislation delaying the rate increases; and

3. Recommends that a full-scale investigation of all of the devious ramifications of this situation be conducted to the end of enacting legislation to protect the interests of the public against abuses of this nature.

RESOLUTION 24

Clark Hill power

Whereas for several years the rural electric cooperatives and municipal electric utilities of Georgia have been attempting to obtain a quantity of power from the Clark Hill project constructed on the Savannah River by the Army Corps of Engineers; and

Whereas, by virtue of section 5 of the Flood Control Act of 1944, the rural electric cooperatives and municipal electric utilities have a preference in the availability of power from this project; and

Whereas, in the past, the efforts of the preference customers to obtain a fair share of this power have been thwarted on occasions by the policies of the Georgia Power Co., and the Department of the Interior; and

Whereas Attorney General Brownell recently issued an opinion reaffirming the right of the preference customers to a preference in purchasing this power directly from the Federal Government; and

Whereas in the absence of a fair and effective wheeling arrangement with the Georgia Power Co., the Southeastern Power Administration should receive funds to make a study of the feasibility of the construction of Federal transmission lines to serve the preference customers: Now, therefore, be it

Resolved, That the American Public Power Association expresses its appreciation to Attorney General Brownell for a forthright and equitable opinion with regard to the rights accorded by law to the preference customers; and be it further

Resolved, That this association expresses the hope that wheeling arrangements, in full accord with the law, can soon be consummated between the Department of the Interior, the Georgia Power Co., and the preference customers, to the end that this source of low-cost power can be made available to the preference customers without further delay; and be it further

Resolved, That if suitable wheeling arrangements are not consummated within the very near future, the Congress should appropriate funds to the Southeastern Power Administration so that agency can make a study of the economic feasibility of the construction of Federal transmission lines.

RESOLUTION 25

Marketing of atomic power

Whereas the Atomic Energy Commission has undertaken certain reactor projects for research and development which may produce electric power in connection with its responsibility for nuclear reactor development; and

Whereas the Atomic Energy Act of 1954 contains a provision giving preference to public and cooperative agencies in the marketing of power produced from such facilities; and

Whereas there appears to be little possibility that the privately owned utilities will cooperate with the public agencies and cooperatives in the wheeling of this power to preference customers: Now, therefore, be it

Resolved, That the Department of the Interior or other appropriate Federal agency be empowered by Congress to provide for the marketing and wheeling of this power to the preference customers involved.

RESOLUTIONS OF CALIFORNIA FEDERATION OF POST OFFICE CLERKS

Mr. LANGER. Mr. President, I ask unanimous consent to have printed in the RECORD resolutions adopted by the California Federation of Post Office Clerks, at Fresno, Calif.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTIONS OF CALIFORNIA FEDERATION OF POST OFFICE CLERKS, 23D BIENNIAL CONVENTION, MAY 24, 25, 26, 27, 1956, FRESNO, CALIF.

ORDER REGARDING OUTSIDE EMPLOYMENT TO BE SET ASIDE

Whereas the Post Office Department in Washington, D. C., issued orders to all regional offices to scrutinize closely the sick leave records and abuse of sick leave; and

Whereas postmasters in different regional areas issued various type questionnaires to employees concerning outside activities; and

Whereas we deem this an invasion of our rights as citizens and free men in a democratic society; and

Whereas we are paid for an 8-hour day and a 40-hour week for working in the post office, and the remainder of each day and each week should be our own time, to do with as we see fit, as long as we violate no laws of the land; and

Whereas the authority to force this indignity upon postal employees stems from the decision in the St. Paul court action regarding such an order in that office; and

Whereas this policy by the department is a far-reaching matter that could and will eventually touch each and every postal and Government employee: Therefore be it

Resolved, That the California Federation of Post Office Clerks, in convention assembled at Fresno May 24–27, do go on record as condemning and protesting this action; and be it further

Resolved, That action be taken to bring this to the attention of the delegates at the national convention in Chicago in August, 1956, and that the national officers be mandated to seek to remedy the situation, either by legislation, or by appeal to a higher court of the St. Paul decision; and be it further

Resolved, That if court action is necessary that such action be carried to the highest court possible in an effort to gain a reversal of the St. Paul decision and that the various locals in the federation be assessed on a prorata basis the cost of appealing said court action; and be it further

Resolved, That copies of this resolution be sent immediately to the national officers, so that they may know the stand of this organization at once; and be it further

Resolved, That copies of this resolution be sent immediately to each member of the House and Senate Post Office and Civil Service Committee.

PROTESTING "GAG" ORDERS OF THE POSTAL FIELD SERVICE

Whereas employees are restrained from advising with each other—by means of bulletin boards located in locker and swing rooms, without prior censorship by the postal official in charge of the installation, concerning matters which may be held to be controversial by the postal official in charge who is, in many cases, directly and solely responsible for whatever controversy exists; and

Whereas by means of recent changes in the Postal Manual, specifically parts 741 and 744 and all sections pertaining thereto, a studied and calculated attempt has been made to silence employees of the postal field service to prevent them from expressing their dissatisfaction with existing conditions; and

Whereas the provisions of this change have already been enforced in some instances; and

Whereas the existing relations between management and labor in the postal field service are not in the best interests of the postal service: Therefore be it

Resolved, That the California Federation of Post Office Clerks assembled in convention at Fresno, Calif., May 24–27, 1956, does hereby condemn these actions of the Post Office Department as oppressive, unwise and illegal and destructive of a sound modern personnel-management relationship, and calls upon the 84th Congress to support immediate and corrective action toward these inequities, and be it further

Resolved, That copies of this resolution be forwarded to our national officers, Senators KNOWLAND and KUCHEL, and each of the California Congressmen, Congressman Moss, Subcommittee on Government Information, and that it also be released to the press for publication.

DISSEMINATION OF PROPAGANDA

Whereas the primary function of the Postal Bulletin has always been to transmit official information; and

Whereas the Department now uses the Postal Bulletin as a medium to disseminate propaganda; and

Whereas the Department publishes and issues free of charge to employees, a magazine titled "Postal Service News"; and

Whereas it is obvious that the aim of the Department is to reduce the deficit, even at the expense of maintaining adequate service: Therefore be it

Resolved, That the California Federation of Post Office Clerks in convention assembled at Fresno, Calif., May 24–27, 1956, go on record urging the omission of Department propaganda from the Postal Bulletin and the suspension of "Postal Service News"; and be it further

Resolved, That the specific cost of this unnecessary publication to the taxpayer be ascertained to determine the exact amount the deficit can be reduced; and, be it further

Resolved, That copies of this resolution be sent to the Chairmen of the Senate and House Post Office Committees and to the Senators and Representatives from California.

PROTEST TRANSFER OF GOVERNMENT ACTIVITIES TO PRIVATE BUSINESS

Whereas the President of the United States has directed the Federal Agencies and Departments to review their commercial and industrial activities to determine which functions can be taken over by private industry; and

Whereas the entire policy is being predicated without regard to increased cost to the taxpayer, national security, the Government's moral obligation to Federal employees and the Government's operation of the Postal Service as established by the Constitution of the United States; and

Whereas such directions have affected postal operations by recommending:

(a) Postal remittances, money order, and other finance activities formerly handled in post offices and in other central accounting offices have been transferred to banking institutions:

(b) IBM machines and others are now being used in postal work with the ownership retained by business firms and used in postal activities on a rental basis;

(c) The Post Office Department has contracted much of the postal work to individuals and firms who to all intents and purposes conduct post offices involving money order, registry, COD, insurance, stamp sales and other postal activities: Now, therefore, be it

Resolved, That the California Federation of Post Office Clerks, in convention assembled at Fresno, Calif., May 24–27, 1956, go on record in opposition to the policy which would deprive postal personnel of the duties pertinent to the operation of the United States Postal Service as now established by the Constitution and the laws of Congress; and be it further

Resolved, This protest be communicated to Members of Congress from the State of California, to the Honorable RICHARD M. NIXON, Vice President of the United States, and President of the Senate; the Honorable LYNDON JOHNSON, majority leader; the Honorable W. F. KNOWLAND, minority leader, the Honorable SAM RAYBURN, Speaker of the House of Representatives; the Honorable JOHN MCCORMACK, majority leader; and the Honorable JOSEPH W. MARTIN, JR., minority leader, advising them of our protest over this policy of taking away the duties and work of postal personnel and transferring same to private individuals who have not demonstrated their ability to handle such responsibility, nor have pledged their loyalty and devotion to the Federal Government as have the post-office employees of this Nation.

WORKING CONDITIONS

Whereas the present policies of the Post Office Department involve the elimination of seniority as a major factor in promotions; and

Whereas the installation of the Works Performance Standards program has resulted in the establishment of a vicious speedup system which places men in competition with each other in an effort to reach impossible goals; and

Whereas other working conditions with particular reference to hours and tours of duty, assignments, compensatory time and substitute employment to name only a few, are steadily deteriorating; and

Whereas interpretations of Public Law 68, 84th Congress, by the Post Office Department are designed to circumvent and nullify the provisions of section 606 (b) of that act by authorizing or purporting to authorize the employment of substitutes for less than 2 hours on a voluntary basis in direct violation of law; and

Whereas the interpretation by the Post Office Department of section 403 (1) deprives employees of their legal rights to promotions on specified dates, contrary to the stated language of the act; and

Whereas regional and district officers are issuing orders and directives with respect to seniority, sick and annual leave, filling of vacancies and increases in complement which are directly contrary to what we have been assured is the policy of the Post Office Department; and

Whereas as a result of these developments and others too numerous to mention there is a steady and noticeable decline in morale among employees; and

Whereas these conditions have all been brought about by unilateral actions on the part of the Post Office Department without previous consultation with employee representatives on either a local or national scale; and

Whereas employees are restrained, under part 743.222 of the Postal Manual, from advising with each other—by means of bulletin boards located in locker and swing rooms not accessible to the public—concerning matters which may be held to be controversial by a postmaster who is in many cases, directly and solely responsible for whatever controversy exists; and

Whereas by means of recent changes in the Postal Manual, part 744.442, a studied and calculated attempt has been made to silence and gag employees of the field postal service to prevent them from expressing their dissatisfaction with existing conditions; and

Whereas this action is in direct violation of section 6 of the act of August 24, 1912, better known as the Lloyd-La Follette anti-gag law: Now, therefore, be it

Resolved, That the California Federation of Post Office Clerks, in convention assembled at Fresno, Calif., May 24, 25, 26, 27, 1956, does hereby condemn those actions of the Post Office Department as oppressive, unwise and illegal and destructive of a sound modern personnel-management relationship, and call upon the California Congressmen and Senators thereof, to enact legislation which will absolutely require the heads of each department and agency of our Federal Government to cease and desist from practices which in the case of an employer under the National Labor Relations Act would be branded as unfair labor practices; and be it further

Resolved, That we endorse the Rhodes-Johnston bills H. R. 10237; S. 3593 for this purpose and urge each Member of Congress who believes in human dignity and fair play to support this legislation and work for its enactment at the current session of the 84th Congress.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAVEZ, from the Committee on Public Works, with amendments:

S. 3704. A bill to authorize the acquisition of the remaining property in square 725 and the property in square 724 in the District of Columbia for the purpose of extension of the size of the additional office building for the United States Senate or for the purpose of addition to the United States Capitol Grounds (Rept. No. 2263).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 1693. A bill for the relief of Robert F. Gross (Rept. No. 2269).

By Mr. MURRAY, from the Committee on Interior and Insular Affairs, without amendment:

S. 3042. A bill to amend section 27 of the Mineral Leasing Act of February 25, 1920, as amended (30 U. S. C., sec. 184), in order to promote the development of phosphate on the public domain (Rept. No. 2272).

By Mr. MURRAY, from the Committee on Interior and Insular Affairs, with amendments:

S. 1333. A bill to authorize the construction, operation, and maintenance of the Hells Canyon Dam on the Snake River between Idaho and Oregon, and for related purposes (Rept. No. 2275).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, without amendment:

S. 3512. A bill to permit desert land entries on disconnected tracts of lands which, in the case of any one entryman, form a compact unit and do not exceed in the aggregate 320 acres (Rept. No. 2271).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with an amendment:

S. 3743. A bill to add certain federally owned land to the Lassen Volcanic National Park, in the State of California, and for other purposes (Rept. No. 2264).

By Mr. BEALL, from the Committee on the District of Columbia, without amendment:

H. R. 6782. A bill to amend section 7 of an act making appropriations to provide for the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes, approved July 1, 1902, as amended (Rept. No. 2268).

By Mr. KENNEDY, from the Committee on Government Operations, with amendments:

S. 3362. A bill to simplify accounting, facilitate the payment of obligations, and for other purposes (Rept. No. 2266); and

H. R. 7227. A bill to amend further the Federal Property and Administrative Services Act of 1949, as amended, to authorize the disposal of surplus property for civil defense purposes, to provide that certain Federal surplus property be disposed of to State and local civil defense organizations which are established by or pursuant to State law, and for other purposes (Rept. No. 2267).

By Mr. MONRONEY, from the Committee on Banking and Currency, without amendment:

H. R. 10230. An act to amend sections 3526 and 3528 of the Revised Statutes relating to the coinage of subsidiary silver coins and minor coins of the United States (Rept. No. 2270).

By Mr. JENNER (for Mr. GREEN), from the Committee on Rules and Administration, without amendment:

S. Con. Res. 79. Concurrent resolution to print additional copies of Senate document No. 117, entitled "A Handbok for Americans."

By Mr. GEORGE, from the Commitee on Foreign Relations, without amendment:

S. J. Res. 165. Joint resolution approving the relinquishment of the consular jurisdic-

tion of the United States in Morocco (Rept. No. 2274).

By Mr. GEORGE, from the Committee on Foreign Relations, with an amendment:

H. R. 11356. A bill to amend further the Mutual Security Act of 1954, as amended, and for other purposes (Rept. No. 2273).

By Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, with an amendment:

H. R. 5256. A bill to provide for the redemption by the Post Office Department of certain unsold Federal migratory-bird hunting stamps, and to clarify the requirements with respect to the age of hunters who must possess Federal migratory-bird hunting stamps (Rept. No. 2276).

IMPROVEMENT OF GOVERNMENTAL BUDGETING AND ACCOUNTING METHODS AND PROCEDURES (S. REPT. NO. 2265)

Mr. KENNEDY. Mr. President, I am about to submit a report, and I ask unanimous consent that I may speak on it, in excess of the 2 minutes allowed under the order which has been entered.

The PRESIDENT pro tempore. Without objection, the Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, from the Committee on Government Operations, I report favorably, without amendment, the bill (S. 3897) to improve governmental budgeting and accounting methods and procedures, and for other purposes.

This bill was ordered reported unanimously by the Committee on Government Operations on June 7, 1956, after extensive hearings during this session of the Congress. In my opinion, and that of the foremost authorities on financial management, it is the most significant development in the Government's financial structure in a decade or more.

Sponsored by 32 Members of this body, from both sides of the aisle, the bill would place the entire governmental financial structure on an annual accrued expenditures basis. The heart of the bill is contained in section I which provides that the Congress make its appropriations for each fiscal year upon the estimates of expenditures actually to be made or to be accrued during that fiscal year, as opposed to the present complicated procedure whereby the Congress appropriates billions of dollars for a fiscal year which are expended during future fiscal years—and over which the Congress has little or no control once the appropriations are made.

This feature would eliminate or substantially reduce the tremendous carryovers of unexpended balances of appropriations, presently estimated as high as $48 billion, which have plagued the Congress for many years. In addition, I am convinced enactment of this legislation will produce substantial operating economies by placing our financial structure on a more businesslike basis where we know each fiscal year what is required, what is expended, and what we have received for the expenditures made.

To convert appropriations to an annual expenditures basis, the bill provides that the executive agencies shall maintain their budgets on a cost-operating basis and maintain their accounts on an accrual expenditures basis. In no other way can the Congress realistically appropriate on the basis of actual requirements each fiscal year.

To avert any fear or confusion that this legislation will in any way impair the maintenance of the military establishment at the levels that the preservation of our national security dictates, I should like to state that the evidence presented before the Government Operations Committee makes clear that the stating of appropriations on an expenditures basis will not affect the existing statutory authority of the executive departments, including the Department of Defense, to contract for or make commitments for capital expenditures in future fiscal years, provided that the existing requirement that advance approval be obtained from the Appropriations Committees of the Congress is met.

In connection with this very important aspect, I should like to have printed in the RECORD, as a part of my remarks, a letter from the Comptroller General of the United States.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, June 6, 1956.

Hon. JOHN F. KENNEDY,
Chairman, Subcommittee on Reorganization, Committee on Government Operations, United States Senate.

DEAR MR. CHAIRMAN: During the hearings this morning on S. 3897, representatives of the Department of Defense suggested that the language of the proposed section 201 (b) of the Budget and Accounting Act, 1921, might be clarified by the insertion of the following proviso at the end of the paragraph in lines 6 through 9 of page 2 of S. 3897:

"*Provided,* That nothing in this subsection shall be construed to affect the authority of the President to submit requests for authorizations to create obligations in advance of appropriations."

The Defense representatives apparently felt that the present language of lines 6 through 9 might possibly be construed as repealing by implication the authority for requesting contract authorizations contained in the present section 201 of the Budget and Accounting Act, 1921. It is our considered opinion that there is no conflict whatsoever between the language of the new subsection 201 (b) proposed to be added by this bill and the present section 201 of that act, and that the proposed section 201 (b) could not be construed as restricting the authority to request contract authorizations in the present section 201.

Section 2 of the Budget and Accounting Act, 1921, as amended, defines the term "appropriation" as used in that act as follows:

"The term 'appropriations' includes, in appropriate context, funds and authorizations to create obligations by contract in advance of appropriations, or any other authority making funds available for obligation or expenditure."

The use of the words "in appropriate context" contained in that definition makes it clear that the term "appropriation" may mean (1) the appropriation of funds; (2) authorizations to create obligations by contract in advance of appropriations (commonly referred to as "contract authority"); or both (1) and (2). As the term "appropriation" is used in the present section 201 (d), which under this bill would be section 201 (a) (5), and section 203, it clearly means both appropriation of funds and contract authority. As that term is used in line 6, page 2, of the bill, however, it is used in relation to the determining of amounts of proposed appropriations on an accrued expenditure basis. As the term "appropriation" is used in that context, it can mean only the appropriation of funds. Since the language in lines 6 through 9, page 2 of the bill relates only to the appropriation of funds, it cannot be viewed as conflicting with the authority in the present section 201 to include in the budget proper requests for authorizations to create obligations in advance of appropriations. The appropriation committees of the Congress will thus have the tools to review both the complete programs for which contractual authorizations are requested or have been granted as well as the amount of funds required to meet the expenditures which will accrue in the budget year.

Moreover, it should be noted that the legislative history of this bill already has made it clear that contractual authorizations for long lead-time programs will be required when the appropriations therefor are stated on an annual accrued expenditure basis. This was pointed out in the Hoover Commission Report on Budget and Accounting.

It thus seems very clear to us that the existing authority to include requests for contract authorizations in the budget would not be abrogated by this bill and that the clarifying language suggested by the Department of Defense is unnecessary.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

Mr. KENNEDY. Mr. President, I am fully aware that the stating of appropriations on an expenditures basis is, indeed, a revolutionary change in the Government's financial structure. I may advise the Senate that this is proposed by the Senate Committee on Government Operations only after the most thorough deliberation and consideration.

This bill has the unqualified endorsement of the Director of the Bureau of the Budget, the Comptroller General of the United States, and the Secretary of the Treasury, as well as the general approval of the Department of Defense, which, I might say, despite the many technical problems involved, has cooperated wholeheartedly with the Senate Government Operations Committee's Subcommittee on Reorganization in the processing of this legislation during the last 90 days. As a matter of fact the Department of Defense has, for many years, been working steadily toward the accomplishment of most of the basic financial improvements which are the objectives of this bill.

In conclusion, I should like to emphasize that this legislation directly implements, verbatim, the recommendations of the second Hoover Commission relating to cost-based budgeting, accrued accounting, and converting appropriations to an expenditures basis. The Hoover Commission gave the greatest significance to the conversion of appropriations to an expenditures basis as essential to improving financial management of the executive branch and restoring control of the purse to the Congress.

In connection with this, the President of the United States, in a special message to the Congress delivered May 10, 1956,

urged early enactment of appropriate legislation to accomplish the Hoover Commission's recommendations in this field. After briefly reviewing certain administrative action already taken by the Bureau of the Budget, the President stated:

The actions being taken by the executive branch to put many of the Commission's proposals into effect will require close coordination with the legislative branch and merit the support which the Congress should and can provide. I urge that the Congress seek the early enactment of appropriate legislative provisions to support the main objectives of the Commission's recommendations.

The provisions of this bill, upon which the Reorganization Subcommittee of the Senate Committee on Government Operations has been working since early in this session of the 84th Congress, would, as I have previously indicated, directly effectuate the Hoover Commission's recommendations, as the President of the United States requested.

I strongly urge early consideration by the Senate of this vitally important bill. I know of no other legislation which is of greater importance at this crucial time to bringing order to our complicated financial structure and maintaining this Government on its strongest financial foundation.

The PRESIDENT pro tempore. The report will be received, and the bill will be placed on the calendar.

Mr. JOHNSON of Texas. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. I yield.

Mr. JOHNSON of Texas. I wonder when the distinguished Senator would like to have called up the budget and accounting bill, on which he has just filed a unanimous report. Would he be ready to have the bill considered later in the week?

Mr. KENNEDY. Yes; as soon as it is agreeable to the majority leader.

Mr. JOHNSON of Texas. As I understand, the bill was reported unanimously.

Mr. KENNEDY. It was reported unanimously by its sponsors on both sides of the aisle.

Mr. JOHNSON of Texas. The leadership also is interested in the depressed-areas bill. I understand the Senator from Massachusetts attended a meeting of the committee this morning, but a quorum of the committee was not present. Is there to be an attempt to have a meeting later this week?

Mr. KENNEDY. Yes, a meeting will be held to decide on the matter one way or another this week.

Mr. JOHNSON of Texas. I assure the distinguished Senator from Massachusetts of the cooperation of the leadership. As soon as the minority leader gives me an answer concerning the bill just reported, the leadership will try to schedule it for consideration on either Wednesday or Thursday, or on Friday if the Senate is in session, or perhaps on Monday if the consideration of the bill will not take a great deal of time.

As soon as the depressed-areas bill is reported, the leadership expects to give it high priority.

I hope the members of the committee will meet and act on the proposed legislation at as early a date as possible. I do not want to have the calendar become crowded in the last days of the session.

Mr. KENNEDY. I appreciate the willingness of the majority leader to schedule quick action on Senate bill 3897, because it embodies, I think, one of the most important recommendations of the Hoover Commission.

Mr. JOHNSON of Texas. The leadership is delighted to cooperate with the very able Senator from Massachusetts.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SMITH of New Jersey (for himself and Mr. HILL):

S. 4081. A bill to encourage and assist the States in the establishment of State committees on education byeond the high school; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. SMITH of New Jersey when he introduced the above bill, which appear under a separate heading.)

By Mr. MAGNUSON:

S. 4082. A bill for the relief of Kasimirs Abarons; to the Committee on the Judiciary.

By Mr. MAGNUSON (for himself and Mr. JACKSON) (by request):

S. 4083. A bill to change the name of the Government locks at Ballard, Wash., to the "Hiram M. Chittenden locks"; to the Committee on Public Works.

By Mr. KEFAUVER:

S. 4084. A bill for the relief of Heskel Salman Shina; to the Committee on the Judiciary.

By Mr. SALTONSTALL (for himself and Mr. KENNEDY) (by request):

S. 4085. A bill for the relief of John (Ioannis) Legatos; to the Committee on the Judiciary.

GRANTS TO STATES FOR STATE COMMITTEES ON EDUCATION BEYOND THE HIGH SCHOOL LEVEL

Mr. SMITH of New Jersey. Mr. President, the Nation will soon be facing a very critical situation with regard to our institutions of higher learning—namely, our colleges and universities. It is estimated that within the next 10 years there will be 3 students in our colleges for every 2 who are now there.

So we shall soon be facing some very difficult questions. Where will we get the needed teachers? How can the coming increase in students be handled by the colleges without decreasing their standards?

Closely allied to these problems is the serious shortage of trained college graduates in such fields as science and engineering.

In order that these numerous problems may receive serious and organized attention at all levels of Government and among our private institutions, President Eisenhower, in his special message to Congress of January 12, 1956, announced he would appoint a Committee on Education Beyond the High School.

This has now been done; and the President's Committee has recommended the appropriation of one-time grants to all the States, to encourage the setting up of State committees on education beyond the high school level.

Mr. President, after conferring with the distinguished senior Senator from Alabama [Mr. HILL], the chairman of the Committee on Labor and Public Welfare, I introduce, on behalf of the Senator from Alabama and myself, a bill to authorize the appropriation of $800,000, to be available until June 30, 1958, for grants to the States on the basis of their populations, to encourage and assist them in the initial formulation of the State committees to make this study.

Mr. President, I ask that the bill be appropriately referred; and I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, a copy of the bill and a letter to the Speaker of the House from Secretary of Health, Education, and Welfare, the Honorable Marion B. Folsom, asking for support of this proposal.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill and letter will be printed in the RECORD.

The bill (S. 4081) to encourage and assist the States in the establishment of State committees on education beyond the high school, introduced by Mr. SMITH of New Jersey (for himself and Mr. HILL), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That the Congress hereby finds and declares that the impending great increases in enrollment in higher education institutions, the great national need for increased numbers of scientists, engineers, teachers, technicians, nurses, and other trained personnel, the rapid changes in conditions which necessitate additional education for many adults, and the dependence of the national security on the research and advanced preparation provided by educational institutions, combine to make it imperative that immediate stimulus be given to planning and action throughout the Nation which will meet adequately the needs for education beyond the high school.

SEC. 2. (a) To encourage and assist each State to provide for a State committee on education beyond the high school, composed of educators and other interested citizens, to consider educational problems beyond the high school and to make recommendations for appropriate action to be taken by public and private agencies at local, State, regional, and Federal levels, there is hereby authorized to be appropriated the sum of $800,000. Sums appropriated pursuant to this section shall be allotted to the States on the basis of their respective populations according to the latest figures certified by the Department of Commerce except that no State's allotment shall be less than $7,500.

(b) The Commissioner of Education shall pay its allotment to each State which, through its governor or other State official designated by the governor, undertakes to accept and use the sums so paid exclusively for the purposes set forth in subsection (a), including the expenses of studies and conferences, and to have its State committee on education beyond the high school make a report of its findings and recommendations to the Commissioner for the use of the President's committee on education beyond the high school. Sums appropriated pursuant to this section shall remain available until June 30, 1958, and any such sums remaining unpaid to the States or unobligated by them as of that date shall be returned to the Treasury.

SEC. 3. The Commissioner is authorized to accept funds, equipment, personal services, and facilities donated for purposes of this act and to use the same in accordance with such purposes.

SEC. 4. For the purposes of this act the term "State" includes the District of Columbia, Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

The letter presented by Mr. SMITH of New Jersey is as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, June 11, 1956.

Hon. SAM RAYBURN,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: I am enclosing for your consideration a draft bill to encourage and assist the States in the establishment of State committees on education beyond the high school.

The draft bill would authorize the appropriation of $800,000, to be available until June 30, 1958, for grants to the States on the basis of their respective populations, in order to encourage and assist each State to provide for a State committee on education beyond the high school, which committee, through studies and conferences, would consider educational problems beyond the high school and make recommendations for appropriate action to be taken by public and private agencies at local, State, regional, and Federal levels. States would be required, through their governors, to undertake to use grants solely for the purposes of the act and to have their State committees submit reports to the Commissioner of Education for use of the President's Committee on Education Beyond the High School.

You will recall that the President, in his special message to the Congress on January 12, 1956, expressed his concern about the growing problems in the field of education beyond the high school and indicated that he would appoint a committee to develop proposals in this field, as follows:

Shortages now exist in medicine, teaching, nursing, science, engineering, and in other fields of knowledge which require education beyond the level of the secondary school. Changing times and conditions create new opportunities and challenges. There are now possibilities for older persons, properly trained, to lead more productive and rewarding lives. The tide of increasing school enrollment will soon reach higher educational institutions. Within 10 years we may expect 3 students in our colleges and universities for every 2 who are there now.

Higher education is and must remain the responsibility of the States, localities, and private groups and institutions. But to lay before us all the problems of education beyond high school, and to encourage active and systematic attack on them, I shall appoint a distinguished group of educators and citizens to develop this year, through studies and conferences, proposals in this educational field. Through the leadership and counsel of this group, beneficial results can be expected to flow to education and to the Nation, in the years ahead.

Composition of the committee was announced April 19 and on April 27 it met, organized, and agreed on basic objectives as follows: First, to collect, assemble and disseminate information for the purpose of increasing public awareness of the vast challenge which lies ahead in the field of education beyond the high school; second, to encourage the planning and action which must now be undertaken by institutions and groups of institutions, locally and nationally, publicly and privately, to meet the impending demands upon our educational system; the third, to advise the President as to the proper role of the Federal Government in this field and to recommend appropriate Federal policies and relationships.

In order to provide immediate stimulus to the initiation of widespread planning, studies, and action which should be undertaken now by institutions, States and localities, the committee recommended the provision of one-time grants to the States to encourage and assist each State to establish a State committee on education beyond the high school. These State counterparts to the national committee are essential not only for coordination of study and planning activities in the States but to provide a nationwide mechanism for liaison with the national committee. The instant draft bill is designed to accomplish these objectives.

This Department shares with the Committee on Education Beyond the High School and with the educational leadership of the Nation, the great concern we all have about the necessity of bringing concerted action to bear on the mounting problems which we foresee ahead in this field of education and in meeting our future manpower needs. We are, therefore, in accord with the recommendation of the Committee.

I shall appreciate it if you would refer the draft bill to the appropriate committee for consideration.

The Bureau of the Budget advises that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

M. B. FOLSOM,
Secretary.

DEPARTMENT OF DEFENSE APPROPRIATIONS—AMENDMENTS

Mr. BRIDGES (for himself, Mr. BYRD, Mr. ELLENDER, Mr. SALTONSTALL, Mr. KNOWLAND, Mr. HOLLAND, and Mr. MUNDT) submitted amendments, intended to be proposed by them, jointly, to the bill (H. R. 10986) making appropriations for the Department of Defense for the year ending June 30, 1957, and for other purposes, which were ordered to lie on the table and to be printed.

EXTENSION OF LAWS DEALING WITH PROMOTIONS IN THE COAST GUARD—CHANGE OF REFERENCE OF LETTER

Mr. SALTONSTALL. Mr. President, I ask unanimous consent that the Committee on Armed Services be discharged from the further consideration of a letter dated May 18, 1956, from the Acting Secretary of the Treasury, addressed to the Vice President, relative to an extension of laws dealing with promotions in the Coast Guard, and that the letter be referred to the Committee on Interstate and Foreign Commerce.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Massachusetts? The Chair hears none, and it is so ordered.

NOTICE OF HEARING ON NOMINATION OF R. JASPER SMITH TO BE UNITED STATES DISTRICT JUDGE, WESTERN DISTRICT OF MISSOURI

Mr. EASTLAND. Mr. President, on behalf of a subcommittee of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, June 26, 1956, at 10:30 a. m. in room 424, Senate Office Building, on the nomination of R. Jasper Smith, of Missouri, to be United States district judge for the Western District of Missouri, vice Charles E. Whittaker, elevated.

At the indicated time and place all persons interested in the above nomination may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas [Mr. MCCLELLAN], the Senator from Utah [Mr. WATKINS], and myself, chairman.

NOTICE CONCERNING CERTAIN NOMINATIONS BEFORE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Roger G. Connor, of Alaska, to be United States attorney for the district of Alaska, Division No. 1, for the term of 4 years, vice Theodore E. Munson, resigned.

John E. Henry, of Montana, to be a member of the Board of Parole for the term expiring September 30, 1962. Mr. Henry is now serving in this post under an appointment which expires September 30, 1956.

Scovel Richardson, of Missouri, to be a member of the Board of Parole for the term expiring September 30, 1962. Mr. Richardson is now serving in this post under an appointment which expires September 30, 1956.

Victor R. Hansen, of California, to be Assistant Attorney General, vice Stanley N. Barnes, resigned.

Notice is hereby given to all persons interested in these nominations to file with the committee on or before Saturday, June 23, 1956, any representations or objections in writing they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

LEGISLATIVE PROGRAM

Mr. JOHNSON of Texas. Mr. President, I have an announcement I should like to make for the benefit of the Senate. The unfinished business is H. R. 7763, an act to amend the Japanese-American Evacuation Claims Act of 1948, to expedite the final determination of the claims. The Senate expects and hopes to dispose of that bill today, and, in addition, to consider Calendar No. 2175, S. 2572, the Agriculture-Defense Department land exchange bill, as well as Calendar No. 2095, S. 3879, the dealer's day-in-court bill.

Mr. President, we had anticipated taking up the bill to extend the Defense Production Act. The distinguished minority leader had suggested that that bill precede the consideration of certain other proposed legislation. I am informed now that at least two distinguished Members on the minority side of the aisle cannot be in the Senate today, and that the Senator from Utah [Mr. BENNETT] cannot be here tomorrow. He has an amendment to offer. So, in an attempt to accommodate them, if it is agreeable to the minority leader, we shall postpone consideration of the bill to extend the Defense Production Act until another day.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL RECREATION ASSOCIATION CITATIONS TO PERCIVAL P. BAXTER, ALLEN E. MORRELL, AND THE PORTLAND KIWANIS CLUB

Mr. PAYNE. Mr. President, one of the State of Maine's best-loved citizens, former Gov. Percival P. Baxter, will be awarded a special certificate of appreciation and letter of citation today from the National Recreation Association in recognition of his long and outstanding leadership in developing the public recreational facilities of Maine.

It pleases me, as I know it does all the people of Maine, to note this honor which has come to Governor Baxter; for no man in Maine's history, and indeed few in all America, have done so much for the recreation and conservation movements as has Governor Baxter.

The Portland, Maine, Kiwanis Club will also be honored today for its long service to the recreation program of that city. On June 7, the National Recreation Association cited Allen E. Morrell, of Brunswick, Maine, for his leadership in the field of recreation in his community.

These honors are indicative, I believe, of the progress which my State has made down through the years in developing one of her greatest resources, the natural beauty and recreational advantages which she offers to her citizens and to thousands of visitors every year.

I ask unanimous consent to have printed in the RECORD at this point in my remarks the National Recreation Association's citations to Governor Baxter, Allen Morrell, and the Portland Kiwanis Club.

There being no objection, the citations were ordered to be printed in the RECORD, as follows:

NATIONAL RECREATION ASSOCIATION CITATION TO THE HONORABLE PERCIVAL P. BAXTER OF PORTLAND, MAINE

You have been identified with the public park and recreation movement in America for many years. You, more than most people, have recognized the recreational value of land to the people. Your contributions to public recreation in Portland and in the State of Maine have been outstanding. The people of Maine and the many visitors to your State are grateful to you for the gift of more than 165,000 acres of primeval forest land including beautiful Mount Katahdin. In Portland, Mayor Baxter Woods, the beautiful nature sanctuary, given by you in honor of your father; Baxter Forest, given by you as a municipal forest; the lighting of the scenic parkway, Baxter Boulevard, are just a few among many contributions you have made for the recreational benefit of your fellowman. We send you our heartiest commendation for all you have done for the recreation movement.

NATIONAL RECREATION ASSOCIATION CITATION TO ALLEN E. MORRELL OF BRUNSWICK, MAINE

You have been an effective leader of public thought in the field of recreation in Brunswick for 15 years. First recognizing war-time recreation needs, and later the peace-time needs as well, you were able to interpret these needs to the public in such a way as to secure community understanding and public support together with sound expansion and improvement in recreation organization, facilities, personnel and program. You chaired many committees in the several stages of recreation development. Among these were the Citizen's Committee which secured the purchase of Brunswick's fine recreation building and the Recreation Study Committee which wrote the ordinance creating a legal recreation commission. You were one of the first persons appointed to the new recreation commission and have served as a member of that body for 5 years. For all that you have done and are doing for the cause of recreation, we send you our hearty commendation.

NATIONAL RECREATION ASSOCIATION CITATION TO THE KIWANIS CLUB OF PORTLAND, MAINE

Kiwanis has shown real devotion to the cause of recreation and is making outstanding contributions to the community recreation movement in Portland. It has sponsored the swimming meet of the park and recreation department and a Little League baseball team. As a major special project in the interest of youth, it is assisting in the development of the St. James Street playfield. As the club's long term project in connection with this area, it has carried the responsibility since 1954 for the raising of $100,000 for an outdoor swimming pool, which will eventually be an important feature of this area. For all these civic-minded efforts in the field of recreation we send the Kiwanis Club our hearty commendation.

DROUGHT EMERGENCY IN MISSOURI

Mr. SYMINGTON. Mr. President, the New York Times yesterday morning, carried an article, "Only 2 Weeks of Water Left in Missouri Town," which emphasizes the drought emergency in Bethany in northwest Missouri, an emergency worthy of the attention and action by the administration.

I ask unanimous consent to have that article printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ONLY 2 WEEKS OF WATER LEFT IN MISSOURI TOWN

BETHANY, Mo., June 17—Mayor Raymond K. Wheeler said today that the water supply of this town of 3,000 would last only 2 weeks unless rain brought relief.

People have been asked to limit themselves to a couple of gallons daily. Car-washing, lawn-sprinkling, use of automatic dishwashers and nonessential laundry have been barred. Restaurants will not serve water unless customers demand it.

The mayor said further restrictions would have to be imposed.

Bethany's trouble stems from a drought in northwest Missouri. Mr. Wheeler said the 50-year annual rainfall average was 24 inches but in 1955 the town received only 27 inches and in the past 8 months only 5 inches.

Mr. SYMINGTON. Mr. President, in late April, the seriousness of this situation was called to the attention of the proper people in the Department of Agriculture. The Department was asked to be ready to act in response to a request from the Governor of Missouri, if that became necessary.

On May 14, we wrote the Department of Agriculture forwarding minutes of a meeting held at Bethany, Mo., reporting the then serious condition.

On May 25, Gov. Phil M. Donnelly, of Missouri, wrote President Eisenhower asking for drought disaster designation for 11 northwest Missouri counties under provisions of the applicable public laws.

Subsequently, an inspector from the Department of Agriculture did visit the 11-county area of northwest Missouri for which the Governor had requested drought disaster designation. The report on that visit to Bethany is given in the Bethany (Mo.) Republican-Clipper of June 6, under the heading, "Drought Inspector Passes Hurriedly on 11-County Trip."

Mr. President, I ask unanimous consent to have that article made a part of the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DROUGHT INSPECTOR PASSES HURRIEDLY ON 11-COUNTY TRIP—LEAVES IMPRESSION THAT HE DOES NOT YET CONSIDER AREA IN DIRE PERIL, BUT NO STATEMENT IS MADE

A representative of the United States Department of Agriculture, making an inspection of the 11-county dry area of northwest Missouri, paused last week at Bethany on what apparently was a hurried trip over the territory recommended by the State to receive drought disaster relief.

He talked here with Charles Coon, FHA supervisor, and the FHA county committee which happened to be in session at the moment; with Robert Zulian and Oscar Benson, county agents; and Jack Provin, manager of the ASC office.

All three agencies offered to take the inspector out to show him dry ponds, unproductive pastures, and stunted small grain; and to take him to farms where livestock has had to be sold because the farms have no water or feed. He declined to take that time, which would, of course, add up over 11 counties.

COMES FROM TEXAS

It is understood that the inspector came here from examinations in Colorado and Texas, where the country is brown and relatively treeless. Missouri appears green at any time after coming from those directions. It would have been better had the inspector come from the north or east.

Men to whom the inspector talked here, were left with the impression that he felt this area has not yet reached the position of "dire peril" which, according to some interpretation, makes the drought disaster law applicable. The inspector did not say that, however. He was noncommittal.

About 30 or 40 minutes were spent with Coon and his county committee. The disaster law of 1950 was read and discussed, and the category of "position of peril" seemed to be the interpretive guide.

Mr. SYMINGTON. Mr. President, it is significant that this inspector was invited to see the dry ponds, unproductive pastures, stunted small grain, and farms where livestock had to be sold because there was no water or grain, but "he declined to take the time."

On June 7, Mr. Sherman Adams, acting for the President, notified Governor

Donnelly that Missouri's request for emergency drought designation for this area was denied.

On June 12, I telegraphed the President as follows:

WASHINGTON, D. C., *June 12, 1956.*

The PRESIDENT,
The White House,
Washington, D. C.:

A telegram from farmers and business men of Gentry County, 1 of 11 Missouri counties for which Governor Donnelly requested emergency drought designation, reads in part as follows:

"Outraged at the action of Department of Agriculture in refusing aid to this stricken area after a very limited check of conditions."

Similar messages are being received from other drought stricken counties. As evidence of this serious condition, 1 town, Bethany, Mo., has only enough water to last 2 more weeks. These farm and business people would deeply appreciate your immediate reconsideration of Governor Donnelly's request for drought designation.

STUART SYMINGTON,
United States Senator.

On June 13, we told the Department of Agriculture of plans for a 13-county meeting to be held at Bethany last Friday noon, June 15, and asked that a representative of the Department be sent to that meeting.

We pointed out that time is of greatest importance in meeting this need, not only for the city of Bethany, which has only a 2-week water supply left, but also for the farm people of that area who have been hauling water for many weeks.

Department officials said "No"; they planned to send a man to Bethany today, Monday, June 18, to attend a State drought meeting and that he will stay in the area as long as necessary to survey the need. Too bad he did not do that 3 weeks ago.

At the meeting last Friday, 180 farm and business people told of the drought problems they face. Representative WILLIAM R. HULL flew out from Washington to attend and then toured the area Friday afternoon and Saturday. We had a transcript made of the meeting and will send it to the Department of Agriculture and the President's office for their information.

Mr. President, we hope the people of the drought-stricken northwest Missouri and of Bethany, in particular, will not have to exhaust all their water supply before their Government takes action to provide the help needed.

Mr. JOHNSON of Texas. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

REQUIREMENTS FOR FREIGHT FORWARDER PERMITS

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of Calendar No. 2063, Senate bill 3365.

The PRESIDENT pro tempore. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 3365) to amend section 410 of the Interstate Commerce Act, as amended, to change the requirements for obtaining a freight forwarder permit.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That section 410 of the Interstate Commerce Act, as amended, is amended by eliminating therefrom subsection (d) in its entirety, and by redesignating subsection (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), and (h), respectively.

Mr. BRICKER. Mr. President, there is at the desk an amendment to the bill. The amendment was submitted by the distinguished Senator from Maryland [Mr. BUTLER], who is not present at this time. I wish to call up that amendment, with the understanding that the chairman of the committee is willing to accept it.

Mr. MAGNUSON. That is the understanding. May the amendment be stated?

The PRESIDENT pro tempore. The bill is open to amendment.

Mr. BRICKER. On behalf of the Senator from Maryland [Mr. BUTLER], I offer the amendment which I send to the desk and ask to have stated.

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed to strike out all after the enacting clause and insert the following:

That subsection (d) of section 410 of the Interstate Commerce Act, as amended, is amended to read as follows:

"(d) The Commission shall not deny authority to engage in the whole or any part of the proposed service covered by any application made under this section by a corporation controlled by, or under common control with, a common carrier subject to part I of this act solely on the ground that such service will be in competition with the service subject to this part performed by any other freight forwarder or freight forwarders."

Mr. MAGNUSON. Mr. President, I wish very briefly to explain the bill. The report is on the desks of Senators.

Mr. BRICKER. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BRICKER. Is it satisfactory to the chairman to accept the amendment.

Mr. MAGNUSON. Yes. I wished to explain why we were willing to accept it.

Mr. BRICKER. We might conclude the RECORD on that point.

Mr. MAGNUSON. Six or seven years ago, after months of hearings in which all segments of the transportation industry in the United States testified, Congress made freight forwarders common carriers. Previous to that time, under the Interstate Commerce Act, they were not so classified. However, the growth of the freight forwarding business, and its particular interest for the so-called small shipper, the man who ships in less than carload lots, made it so important that it was felt by the Congress at that time, after lengthy hearings, that freight forwarders should be made common carriers.

At the time the bill provided only that the definition of a common carrier under the Interstate Commerce Act should be applied to a freight forwarder. All the pending bill does is to give the Commission the same right to regulate freight forwarders, and to issue a certificate of necessity to a freight forwarder, if he qualifies, in a manner similar to the procedure when a common carrier qualifies. It was thought that probably the language was not sufficient to protect those who might engage in competition in whole or in part with freight forwarders—in some cases other truckers, railroads, and other modes of transportation.

The amendment suggested by the Senator from Maryland and offered in his behalf by the Senator from Ohio is language which has been agreed upon to clear up that point. Otherwise the Committee on Interstate and Foreign Commerce is unanimous with regard to the bill. With this amendment I think the question will be cleared up. Freight forwarders will then be placed in the same position as other common carriers. I think that will do a great deal toward stabilizing our transportation industry. As I say, the growth of the freight forwarding business for the benefit of the small shipper has made it very important in the field of transportation.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Ohio [Mr. BRICKER] for the Senator from Maryland [Mr. BUTLER].

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, in view of the fact that I made only a very brief statement, and the further fact that the report on this technical subject is quite brief, I ask unanimous consent to have the report of the committee printed in the RECORD at this point.

There being no objection, the report (No. 2040) was ordered to be printed in the RECORD, as follows:

COMMITTEE REPORT

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3365) to amend the Interstate Commerce Act to change the requirements for obtaining a freight forwarder permit, having considered the same, report favorably thereon and recommend that the bill do pass.

I. PURPOSE OF THE BILL

The purpose of this bill is to give the Interstate Commerce Commission stronger control over the issuance of permits to engage in the business of freight forwarding than it possesses under existing law.

Section 410 (c) of the Interstate Commerce Act provides, so far as here pertinent, that:

"The Commission shall issue a permit to any qualified applicant therefor, authorizing the whole or any part of the service covered by the application, if the Commission finds that the applicant is ready, able, and willing properly to perform the service proposed, and that the proposed service, to the extent authorized by the permit, is or will be consistent with the public interest

and the national transportation policy declared in this act; otherwise such application shall be denied."

The above-quoted language is the exact counterpart of the permit requirements of part II of the act in the cast of contract carriers by motor vehicle and of part III in the case of contract carriers by water. However, it is followed by section 410 (d) which has no counterpart anywhere in the Interstate Commerce Act or any comparable regulatory statute. Section 410 (d) provides:

"The Commission shall not deny authority to engage in the whole or any part of the proposed service covered by any application made under this section solely on the ground that such service will be in competition with the service subject to this part performed by any other freight forwarder or freight forwarders."

Under sections 209 (b) and 309 (g) of the Interstate Commerce Act, which deal with the issuance of permits to contract carriers by motor vehicle, and to contract carriers by water, respectively, the Commission has regularly and frequently denied applications for new or additional operating authority upon the grounds that the service of existing carriers was adequate to meet all reasonable requirements of the shipping public, and that the institution of additional service would result in needless and uneconomic duplication of existing transportation facilities.

However, because of the provisions of section 410 (d) which are quoted above, and which, as stated, are unique in the field of public utility regulation the Commission has construed the present law as precluding the denial of applications for freight forwarder operating authority upon these grounds. The Commission's interpretation of the statute was spelled out in *Lifschultz Fast Freight, Extension-West and Midwest* (265 I. C. C. 428). This decision placed considerable emphasis upon section 410 (d) and held that, in the light of the provisions of that section, applications for freight forwarder permits could not be denied upon the ground that the new or additional service proposed would compete with existing services or would result in wasteful or uneconomic duplication of facilities, in the absence of specific proof that actual impairment of existing services would result or could reasonably be anticipated. This interpretation of the law was sustained by the Supreme Court in Three Hundred and Thirty-eighth United States Reports, page 855.

The burden of proof imposed under the above-cited decision is one which is practically impossible to meet and, as a result of this interpretation which has been placed upon the law, entry into the field of freight forwarding has been virtually unrestricted. Consistently with this interpretation, the Commission apparently has felt that it is compelled to grant nearly all freight forwarder applications which have come before it. The relatively few applications which have been denied have each been distinguished by some unusual consideration peculiar to that particular case. This could result in overcrowding the freight forwarding field beyond the limits of sound economic balance, a fact which has been called to our attention in the Commission's annual reports to Congress in each of the last 4 years.

The bill would harmonize the permit requirements of part IV of the act with the provisions now contained in other parts of the act and would authorize the Commission to exercise broader discretion in determining whether an application for new or additional freight forwarder operating rights should be granted or denied.

II. TESTIMONY IN SUPPORT OF THE BILL

Testimony in support of the bill was offered on behalf of the freight forwarding industry. The Interstate Commerce Commission has recommended that the bill be enacted, even favoring a more restrictive amendment which would require applicants for freight forwarder operating authority to obtain certificates of public convenience and necessity.

The forwarders who favor enactment of the bill emphasize the fact that successful freight forwarding operations require the availability of a sufficient volume of freight to permit the accumulation and forwarding of truckload or carload quantities with reasonable frequency. This obviously is true, and it follows, as a corollary, that diffusion of the available traffic among too many forwarders would tend to prevent any of them from rendering an efficient and economic service. The testimony indicates that under the liberal policy which the Interstate Commerce Commission has followed in the issuance of freight forwarder permits, such diffusion already has occurred. For example, in 1943 the freight forwarders handled in excess of 5 million tons of freight. Their annual tonnage has declined steadily since then, and in 1954 they handled only 4.2 million tons. During this same period, 29 forwarders have been authorized to institute new operations or to expand their existing services. This strongly indicates that the available tonnage has simply been divided up between more forwarding companies. Not only does this tend to impair the efficiency of existing forwarder service, but it tends to discourage and retard the expansion and development of forwarder service in marginal areas where improved transportation service is most sorely needed. The record makes it clear that a sufficient number of forwarders already are engaged in business to assure that there will be ample competition within this field. Moreover, the bill would not prohibit the Interstate Commerce Commission from granting new or additional freight forwarding rights wherever it might find them to be required in the public interest. The proponents of the bill merely seek the same measure of protection against wasteful and uneconomic competition which is accorded to all other carriers regulated under the act and which is customarily accorded to all regulated utilities.

In the letter dated April 6, 1956, the Commission's Committee on Legislation expressed the following views in support of the bill:

"The effect to be given to section 410 (d) has been considered in a number of Commission proceedings, and, in this connection, one of the requirements necessary to issuance of a freight-forwarder permit under section 410 (c) is a finding 'that the proposed service, to the extent authorized by the permit, is or will be consistent with the public interest and the national transportation policy.' In our administration of part IV of the act, applications for forwarder rights have been granted where the evidence showed, among other things, that shippers desired and would utilize a proposed service. In those cases where it appeared that substantial impairment to the services of existing forwarders might result, the Commission has taken the position that such result would be contrary to the public interest and, upon so finding, has denied applications for new rights. However, due to the difficulty which interested parties in forwarder proceedings have had in adducing evidence to show the probable effects of a proposed service, very few applications for freight-forwarder permits have been denied upon evidence that the granting of such applications might lead to situations resulting in substantial impairment to the services of existing forwarders.

"The act of December 20, 1950 (Public Law 881, 81st Cong.), amended the Interstate Commerce Act by designating freight forwarders as common carriers. The Commission, in its 69th annual report to Congress, recommended (recommendation No. 31) that, since freight forwarders are now classified as common carriers, they be required to secure certificates of public convenience and necessity as a prerequisite to engaging in service as a freight forwarder, the same type of authority required to be obtained by other types of common carriers. As stated in the annual report, the ease with which permits may be obtained, under section 410 (d), could result in overcrowding the freight-forwarding field, with general impairment of forwarder service and harm to the general public. While it appears that the elimination of section 410 (d) is desirable so as to remove the restriction on the Commission's authority to deny applications, we believe that the act should be further amended so as to give effect to the aforementioned annual report recommendation.

"While we are of the opinion that it would be more desirable to amend section 410 as suggested above, we have no objection to the enactment of S. 3365 as introduced."

The Comptroller General of the United States also was asked to comment upon the bill and has advised the committee in a letter dater March 12, 1956, that the bill "if enacted, apparently would not have any direct effect upon the interests of the United States as a shipper or upon the functions of our Office. Accordingly, we have no occasion to object to the enactment of S. 3365."

III. TESTIMONY IN OPPOSITION TO THE BILL

The bill was not opposed by the motor-carriers. It was opposed in part by the railroads and it was opposed by representatives of certain shippers and shipper associations. The interest expressed by the latter was twofold: First, that additional competition in the freight forwarding field would be desirable and that enactment of this bill would tend to curtail the freedom of entry into the business of freight forwarding which exists under present law; and, second, that if shipper associations which are now excluded from regulation under section 402 (c) of the act should ever be subjected to regulation, this bill would make it more difficult for them to obtain freight forwarder permits.

In support of this position, they renewed their argument that freight forwarders are essentially shippers, not carriers, and that therefore no restraint should be placed upon the freedom of any person desiring to do so, to enter the freight forwarding business. The fact that freight forwarders are common carriers subject to regulation under the Interstate Commerce Act serves to distinguish them from unregulated shipper associations which have no obligations to the public, and which are not subject to the restraints and burdens of regulation.

Unlike the shippers and shipper associations who testified in opposition to the bill, the freight forwarders neither manufacture, buy, nor sell the goods which they transport, and they have no proprietary interest in those goods. The 1950 amendment to the act (Public Law 881, 81st Cong.) and the report of this committee in connection therewith (Rept. No. 1285, 81st Cong., 2d sess.) make it abundantly clear that freight forwarders are regulated as common carriers. In the circumstances, it appears to the committee only proper that they should be impartially regulated upon the same terms as other carriers subject to the act.

There has been no testimony before this committee to the effect that if the permit requirements for freight forwarders were made the same as those which now apply in the case of contract carriers by motor vehicle or contract carriers by water, which is the purpose of this bill, the Interstate Commerce Commission would or should place any different construction upon section 410 (c) of the act than it has heretofore placed upon sections 209 (b) or 309 (g). Under the latter sections the Commission has not hesitated to authorize new or extended operations where

it appeared that such operations would be consistent with the public interest, taking into account the possible effect of such new operations upon the service of existing carriers.

The contention that shipper associations which are now excluded from regulation might possibly be subjected to regulation at some future date is too speculative to afford a proper basis for consideration of the merits of the bill which is before us. However, as stated above, the committee sees no reason to believe that the Interstate Commerce Commission would hesitate to grant any application for freight forwarder permit where it was shown that the service proposed would be consistent with the public interest.

The railroads who oppose the bill recognize the fact that the extreme liberality with which freight forwarder permits have been issued under existing law has tended to result in unnecessary duplication of transportation facilities, and in uneconomic conditions within the freight forwarding industry. However, they make the point that freight forwarder service is important to the railroads and that no amendment to the act should be approved which would restrict the right of any railroad to establish freight forwarder service through a controlled corporation as is now permitted under existing law.

It appears to the committee that continuation of the present situation in which virtually all applications for freight forwarder operating authority are granted without regard for the economic consequences, should not be perpetuated indefinitely, to the detriment of the freight forwarding industry and of their service to the public.

The present bill would not modify the provisions of existing law under which carriers subject to parts I, II, or III of the act may acquire freight forwarders, nor would it prohibit any carrier subject to parts I, II, or III of the act, through a separate corporation, from establishing a freight forwarder service upon a showing that such service would be consistent with the public interest and with the other standards laid down in section 410 (c) of the act.

IV. CONCLUSIONS

In the opinion of the committee sound principles of regulation require that all regulated carriers be accorded equal protection against improvident and wasteful duplication of transportation facilities. This is required in the interest of the public no less than in the interest of the carriers. As an incident of regulation, public utilities assume far-reaching obligations to the public and are subject to many restrictions. As a corollary, they are entitled to reasonable protection against dissipation of their revenues and consequent impairment of their service to the public. In the belief that this bill will afford such protection, the committee recommends that this bill do pass.

Changes in existing law

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; existing law in which no change is proposed is shown in roman):

"THE INTERSTATE COMMERCE ACT

"Part IV

"* * * * * *

"SEC. 410. * * *

"(c) The Commission shall issue a permit to any qualified applicant therefor, authorizing the whole or any part of the service covered by the application, if the Commission finds that the applicant is ready, able, and willing properly to perform the service proposed, and that the proposed service, to the extent authorized by the permit, is or will be consistent with the public interest and the national transportation policy declared in this act; otherwise such application shall be denied. * * *.

"[(d) The Commission shall not deny authority to engage in the whole or any part of the proposed service covered by any application made under this section solely on the ground that such service will be in competition with the service subject to this part performed by any other freight forwarder or freight forwarders.]"

The PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

Mr. JOHNSON of Texas. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on the passage of the bill.

The bill (S. 3365) was passed.

AMENDMENT OF JAPANESE-AMERICAN EVACUATION CLAIMS ACT

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business, which will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 7763) to amend the Japanese-American Evacuation Claims Act of 1948, to expedite the final determination of the claims.

INTERCHANGE OF LAND BETWEEN CERTAIN GOVERNMENT DEPARTMENTS

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside, and that the Senate proceed to the consideration of Calendar No. 2175, S. 2572.

The PRESIDING OFFICER (Mr. MCNAMARA in the chair). The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 2572) to authorize the interchange of land between the Department of Agriculture and military departments of the Department of Defense, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. KNOWLAND. Mr. President, I shall not object to the consideration of the bill, but I have a couple of questions which I should like to raise after an explanation of the bill has been made.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ELLENDER. Mr. President, the pending measure was introduced by me at the request of the Department. It authorizes the interchange of national forest lands which are under the Department of Agriculture with military department lands within or adjacent to national forests. This will permit the most efficient use and administration of lands which are needed by, or intermingled with, other lands administered under the jurisdiction of the respective departments.

When the bill was called up the other day, the Republican calendar committee objected to its consideration. As I understand, the opposition was based on the fact that if the bill were passed, Congress would lose its present authority to decide whether transfers of such lands could be made. In order to act upon this proposal, I consulted the Department of Agriculture. An amendment was suggested which may meet the approval of the Republican calendar committee. The amendment which I intend to propose is to insert on page 2, line 3, before the period, a colon, and the following: *"Provided*, That no such interchange of land shall become effective until 45 days (counting only days occurring before any regular or special session of the Congress) after the submission to the Congress by the respective Secretaries of notice of intention to make the interchange."

Mr. KNOWLAND. Mr. President, I think that meets the point raised by the Republican calendar committee, which I think was a valid one, to keep control within the Congress, and to assure that due notice would be given.

I think the Senator's amendment would take care of the situation.

Mr. ELLENDER. Mr. President, I send my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Louisiana will be stated.

The LEGISLATIVE CLERK. On page 2, line 3, before the period, it is proposed to insert a colon and the following: *"Provided*, That no such interchange of land shall become effective until 45 days, (counting only days occurring during any regular or special session of the Congress) after the submission to the Congress by the respective Secretaries of notice of intention to make the interchange."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana [Mr. ELLENDER].

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2572) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of Agriculture with respect to national forest lands and the Secretary of a military department with respect to lands under the control of the military department which lie

within or adjacent to the exterior boundaries of a national forest are authorized, subject to any applicable provisions of the Federal Property and Administrative Services Act of 1949, as amended, to interchange such lands, or any part thereof, without reimbursement or transfer of funds whenever they shall determine that such interchange will facilitate land management and will provide maximum use thereof for authorized purposes: *Provided,* That no such interchange of lands shall become effective until 45 days (counting only days occurring during any regular or special session of the Congress) after the submission to the Congress by the respective Secretaries of notice of intention to make the interchange.

SEC. 2. Any national forest lands which are transferred to a military department in accordance with this act shall be thereafter subject only to the laws applicable to other lands within the military installation or other public works project for which such lands are required and any lands which are transferred to the Department of Agriculture in accordance with this act shall become subject to the laws applicable to lands acquired under the act of March 1, 1911 (36 Stat. 961), as amended.

AMENDMENT OF JAPANESE-AMERICAN EVACUATION CLAIMS ACT

Mr. JOHNSON of Texas. Mr. President, under the parliamentary situation, I assume the Presiding Officer will lay before the Senate the unfinished business.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H. R. 7763) to amend the Japanese-American Evacuation Claims Act of 1948, as amended, to expedite the final determination of the claims, and for other purposes, which had been reported from the Committee on the Judiciary with amendments.

Mr. DIRKSEN. Mr. President, in 1948 provision was made for handling the claims of Japanese-American citizens who, under the War Powers Act, were evacuated from areas on the Pacific coast, and also in Hawaii and in Alaska. Quite a number of claims were filed as a result of that act, and additional claims were filed when the act was amended from time to time. The Attorney General was given power to compromise claims up to $2,500, and he had to adjudicate them.

The record will show that since 1948 some 24,064 claims had originally been filed, and under the action of the Attorney General, the number has now been reduced to 1,936. But we are in the unhappy position that the remaining claims are in excess of $2,500. They range from $6,800 to more than $100,000, and aggregate $53 million.

The pending bill was considered by the House of Representatives and passed in March. It was then considered by a subcommittee and by the full Judiciary Committee of the Senate. The committee suggests some modifications designed to give the Attorney General jurisdiction to compromise and settle claims involving not exceeding $100,000. Claims in excess of that amount can either be handled by the Court of Claims or be submitted to the Congress.

It is provided that certain other claims shall be considered, including those filed by organizations, and claims which were mailed but not received within the time period set in the original act.

The bill has the concurrence of the Attorney General. It has passed the House, and I hope that with the safeguarding amendments it will be approved by the Senate.

In connection with this statement, not wishing to trespass on the time of the Senate, I ask unanimous consent that a statement which I have prepared be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DIRKSEN

In urging approval of H. R. 7763, a bill to expedite the final determination of the remaining evacuation claims of Americans of Japanese ancestry, may I briefly explain the necessity and urgency for its enactment.

Fourteen years ago, in the spring of 1942, as a matter of military precaution, the Army evacuated without trial or hearing some 110,000 persons of Japanese ancestry, more than two-thirds of whom were citizens by birth while the others were resident aliens denied the privileges of naturalization by our laws, from their west coast homes and associations. None was charged with disloyalty or any criminal act against the United States; indeed, records of all the Federal investigative agencies reveal that there is not a single instance of espionage or sabotage against this country by a resident Japanese, citizens and aliens alike, before, during, and after December 7, 1941.

In this unprecedented mass movement, many lost everything they had; most lost substantially; and all suffered some economic loss, not to mention humiliation and physical hardships and illnesses.

80TH CONGRESS PASSED BASIC LAW

The 80th Congress, 8 years ago, enacted the basic Japanese American Evacuation Claims Act of 1948 authorizing the Attorney General to adjudicate certain claims of persons of Japanese ancestry which were a direct consequence of their military eviction.

In the 18-month period allowed to file claims, some 24,000 claims for almost $130 million were filed with the Attorney General. But the adjudicative process proved so slow and cumbersome, as well as costly administratively, that the 82d Congress in 1951 approved a compromise settlement procedure under which the Attorney General was authorized to compromise and settle the smaller claims up to three-fourths the amount of the compensable items, if any, or $2,500, whichever was less.

Under this compromise settlement procedure for smaller claims, a program which threatened to take decades was virtually completed by the end of fiscal year 1954. By that time, some 19,750 claims had been compromised and settled for some $23 million, out of a total originally claimed of some $63,700,000.

Today, in the main only the larger claims remain, almost 2,000 claims for a total claimed amount of more than $53,000,000.

LOGICAL EXTENSION

The proposed legislation is the logical extension of the compromise settlement program for the smaller claims. Unless it is approved, it will take another decade or more to complete this program.

It authorizes the Attorney General to compromise and settle all claims in an amount not to exceed $100,000. This limitation will allow the Attorney General to compromise and settle all but 69 of the remaining claims, and many of these 69 claims with an original claimed amount of over $100,000 will probably be willing to accept the Attorney General's top limit or less if given the opportunity.

If the claimant is not satisfied with the compromise offer of the Attorney General, he may seek a judicial review or determination of his claim, both as to valuation and as to compensable terms, in the Court of Claims. This appeal to judicial review, incidentally, is not a part of existing law. In keeping with traditional American concepts of justice, we believe that such review should be provided in any claims program and, therefore, H. R. 7763 makes such appeals procedure applicable.

If the claim is for more than $100,000, and the claimant is not satisfied with the Attorney General's compromise offer which may or may not be in that limited amount, he has recourse to the Court of Claims.

In this connection, it should be made clear that, as with other litigation before the Court of Claims, the Attorney General and the claimant may agree to any settlement of the claim, subject of course to approval of the Court of Claims. In other words, the amendment offered by the Committee on the Judiciary does not in any way change or alter the right of the Attorney General to settle any claim while it is in litigation if he feels that it is in the interests of the United States to do so.

Moreover, the Court of Claims is not restricted to awarding an amount not in excess of the $100,000 authorized for the Attorney General in the compromise settlement procedure. If any claimant can demonstrate to the Court of Claims that, under the law, he is entitled to more than the $100,000, there is nothing in this legislation to prohibit the court from making such an award. Indeed, in the 2 or 3 claims totaling more than $1 million each, if the claimant can prove his claim to the claimed amount, the court can make an award without regard to any limitation as to total amount.

CLAIMS VALIDATED

In addition to this compromise settlement authority, with a Court of Claims alternative, H. R. 7763 validates three types of claims presently not considered compensable.

Profit and nonprofit corporations, the majority of whose stock or members on December 7, 1941, were persons of Japanese ancestry are declared to be eligible claimants. In the light of common business practices, where corporate entities are recognized as legal personages, we believe that this claims program should take this traditional concept into consideration.

West coast internees who suffered property losses as a consequence of the evacuation, and not of their internment, are also recognized as eligible claimants. In this connection, it should be made clear that other internees, including those of Japanese ancestry residing outside of the evacuated areas, were able to carry on their businesses and to maintain their homes, even though they were interned, because their families and friends were able to carry on their activities in their behalf. This was not true in the case of west coast internees from the evacuated areas since thier families and their friends of Japanese ancestry were subsequently removed and, therefore, not able to continue the operations on behalf of these internees. It is clear that no disloyal person will be compensated, however, because all of the so-called dangerous internees were expatriated or deported to Japan during and after the war and are not in this country at this time.

Finally, some 75 claims totaling some $150,000 which were postmarked prior to the January 3, 1950, deadline but were received after that bar date by the Attorney General in Washington are to be considered as timely filed within the meaning of the act.

Perhaps it should be pointed out that the House Committee on the Judiciary eliminated certain provisions to H. R. 7763 which would have required the Attorney General to be more generous and liberal in his evaluation of certain kinds of losses, such as conservation and management expenses, crop losses, and rental values, in the interests of securing expediting legislation this session. In respect to these items, which constitute a substantial part of many of the remaining claims, it is clear that the Attorney General will continue to evaluate the extent of the losses suffered in terms of his present interpretations and that he will not refuse to consider these items of loss as valid ones.

CHICAGO JAPANESE-AMERICANS

After the evacuation most of the Japanese-Americans resettled in midwestern, southern, and eastern communities outside the western defense command. As a matter of record, more Japanese-Americans resettled in the city of Chicago than in any other community in the Nation and even today the second largest group of Americans of Japanese ancestry continue to reside in Chicago.

These Japanese-Americans have contributed much to Chicago and to the State of Illinois. The Chicago chapter of the Japanese American Citizens League is one of the more active civic organizations in my State.

It is, therefore, from personal experience with these evacuated Japanese Americans who have found new homes, new friends, new opportunities, and new hopes in Illinois that I, as a member of the Committee on the Judiciary to which H. R. 7763 was referred, urge my colleagues to approve this vital and meritorious legislation which would help in part to mitigate the wartime property losses suffered by one loyal segment of our population.

The PRESIDING OFFICER. The committee amendments will be stated.

The amendments of the Committee on the Judiciary were, on page 1, line 8, after the word "award", to insert "in an amount not to exceed $100,000"; and on page 5, line 2, after the word "award", to insert "in an amount not to exceed $100,000."

The amendments were agreed to.

Mr. MAGNUSON. Mr. President, I should like to add a word or two to what the Senator from Illinois has stated concerning the bill.

It is quite important, particularly to those of us on the Pacific coast. After the attack on Pearl Harbor many Japanese were taken from their homes. I think it turned out that we made a mistake, but I can understand that the better part of caution was to take action. They were taken to various parts of the country, and located in concentration centers. Many were moved east of the Rocky Mountains. Chicago received a great number of these people, who are still living there.

It developed that no question of sabotage was involved, and there was no disloyalty on the part of these people. I do not know of a single case of disloyalty. They were disrupted. Many of them have returned to the places where they formerly lived. They are hopeful that they can reestablish themselves.

Many of them did not know how to file their claims. They did not have lawyers. In some cases, there was a great deal of damage done to their small homes. Vandalism occurred. Windows were broken, and the land deteriorated.

We have been working 6 or 7 years, trying to get these claims cleared up. The bill is not exactly what we wanted, but it will go a long way to give the Attorney General authority to proceed to clear up the claims.

The bill has a long history. I think I introduced the original bill when I was a member of the Judiciary Committee. Former Senator Cooper, of Kentucky, was also a member of the committee.

I hope we can report to the next Congress, or, at least, before the session next year is concluded, that some success has been achieved in clearing up the remainder of the claims.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement which I have prepared on the subject, and also a portion of the report of the Judiciary Committee.

There being no objection, the statement and a portion of the committee report were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MAGNUSON

THE JAPANESE-AMERICAN EVACUATION CLAIMS ACT

Eight years ago, I was a member of the Judiciary Subcommittee with the present Ambassador to India, then Senator John Sherman Cooper, of Kentucky, when the basic statute which H. R. 7763 seeks to amend was considered. The basic statute is the Japanese American Evacuation Claims Act of 1948, which authorizes the Attorney General to adjudicate certain property losses suffered by persons of Japanese ancestry as a direct consequence of their military evacuation in the spring and summer of 1942.

Since there are more Japanese-Americans in my State of Washington than in any other State in the Union except California, and since I have long been acquainted with them and their problems, both before and since World War II, I desire my colleagues in the Senate to understand the purpose of this particular legislation, H. R. 7763.

Major objective

The main provision of this bill proposes to authorize the Attorney General to compromise and settle all of the remaining evacuation claims in an amount not to exceed $100,000. If a claim is for more than that amount, or if the claimant is not satisfied with the compromise offer of the Attorney General, he has the right to appeal to the Court of Claims for a judicial determination of his claim.

It is as simple as that.

Of course, there are other provisions in this bill, but the compromise settlement feature with its Court of Claims alternative is the principal one.

And why is such an expediting provision needed? It is because the adjudicative procedure established by the basic law is so cumbersome, slow, and costly that, unless this amendatory legislation is passed, a decade or more will be required to complete this program at an administrative cost to the Government that may well equal one-half or more of the amount of awards paid to the claimants.

House report for background

In order that Senators may have the benefit of the background for this legislation, I ask that Report No. 1809, of the House Committee on the Judiciary, to accompany H. R. 7763, be included in my statement at this point, beginning on page 3, Purpose, and ending on page 8, after the paragraph on item V, Bill gives claimants election to either accept Attorney General's compromise or to take claim to Court of Claims for settlement.

Hearings held

It should be noted that extensive public hearings were held in California in 1954 and in 1955 with more than 150 witnesses, representing all walks of life, testifying to the need for this expediting legislation. Only one witness wrote in expressing objection to the principle involved.

Items eliminated

The chairman of the Judiciary Subcommittee on Claims introduced H. R. 7763, to include those recommendations which the subcommittee on 2 occasions had felt required legislation. Unfortunately, not because they lacked merit, but because "their inclusion would substantially reopen the entire project and would thereby delay, and not expedite, the final conclusion of this program," the House Judiciary Committee eliminated provisions directing the Attorney General to more liberally and generously evaluate management and conservation expenses, crop losses, and rental values.

At the same time, the House Judiciary Committee made it clear that its actions did not foreclose future consideration of these items by the Attorney General, for it is intended that the Attorney General continue to determine the extent or amount of the losses suffered on the same basis as he has been doing since the inception of the program.

Moreover, the House Judiciary Committee makes it clear that claimants who are not satisfied with either or both the amounts and the compensable items allowed may seek recourse to the Court of Claims for a final determination on judicial grounds.

H. R. 7763, as amended, passed the House unanimously on March 5.

Senate amendment

The Senate Committee on the Judiciary accepted the House-approved bill with but one amendment, and that to limit the authority of the Attorney General to compromise in an amount "not to exceed $100,000."

It is my belief that this Senate amendment is an appropriate one, for the Attorney General should have some limits to his discretion in such matters. On the other hand, I do not believe that this limitation prevents the Attorney General from reaching a settlement on claims over $100,000 and for amounts in excess of $100,000 when that claim is in litigation before the Court of Claims and is agreed to by both the claimant and the court itself, for this is an established principle which this Senate amendment does not impinge upon. Also, it is my opinion that this $100,000 limitation on the Attorney General's power to compromise claims does not prohibit the Court of Claims from making an award in excess of that amount.

In any event, this legislation is needed in order that this program can be completed within a reasonable period so that those who suffered the losses and who filed claims may be the beneficiaries of this legislation of grace while they are still alive.

Noncontroversial bill

This remedial legislation is endorsed by the Japanese American Citizens League, with its 88 chapters in 32 States, as the single most important bill in this session directly and solely involving Americans of Japanese ancestry in this country. It is also approved by the administration and by the Department of Justice. It has the support of all the west coast delegation in Congress on a nonpartisan basis. It is noncontroversial and certainly meritorious in the tradition of democracy's ability to make up for its mistakes.

Too long have our Americans of Japanese ancestry waited for the conclusion of this claims program. It is my hope that this Congress will enact H. R. 7763 to speed the time when what can be done to compensate for some of the property losses of their wartime evacuation will be accomplished. We

can never compensate for what we did to them in the hysteria of war, but we can at least compensate our Japanese-Americans for certain of their real property losses which our Government caused them to suffer.

PURPOSE

The purpose of this legislation is to amend the Japanese-American Evacuation Claims Act, as amended, to provide methods for the expeditious settlement of the remaining claims. Under the proposed legislation, the Attorney General will be relieved of his obligation to adjudicate the remaining claims and will be empowered instead to dispose of them through compromise settlements.

PRELIMINARY STATEMENT

In 1948, Congress enacted Public Law 886 (80th Cong.) authorizing the Attorney General to adjudicate and settle the property loss claims of those persons of Japanese ancestry who were evacuated or excluded from the Pacific coast area of the United States, Hawaii, and Alaska during World War II, pursuant to Presidential orders.

The 1948 act called for formal adjudication of the claims. Formal adjudication, however, proved burdensome, at least for the smaller claims, and in 1951 Congress amended the 1948 act, authorizing compromise settlement—as distinguished from formal adjudication—of all claims where the award made would be $2,500 or less. Practically all of the claims amounting to $2,500 or less have been settled.

As of September 23, 1955, there were still 2,077 remaining claims to be settled, totaling $55,051,492.58. They included substantially all of the larger claims which, because of the $2,500 limitation in the present law, cannot be settled through the compromise formula. In order to expedite the remaining claims, Representative PATRICK J. HILLINGS introduced in the 83d Congress H. R. 7435. Hearings were held on that measure and as a result the subcommitte filed a report setting forth 16 specific recommendations. Because the Congress had adjourned, no further action was taken on that measure.

In the 84th Congress H. R. 4673 was introduced, containing those recommendations. A report on that bill was requested from the Department of Justice, which is charged with administering the claims program. While the Department was in favor of the subcommittee's recommendations for informal compromise settlement of all remaining claims, it nonetheless took issue with several of the subcommittee's recommendations. Thereafter the present bill, H. R. 7763 was introduced and it is, in a sense, a compromise measure and is calculated to carry out the present recommendations of the subcommittee and at the same time embody the suggestions made by the Attorney General.

It might be well to note at this point that the committee did not go into the question of whether the Government was either legally or morally responsible for the losses sustained by the evacuated people. That issue, insofar as the committee is concerned, was resolved in 1948 when Congress passed Public Law 886 (80th Cong.) compensating those people for their property losses. The committee's main objective was to consider the provisions of H. R. 7763 in order to determine whether it would provide adequate procedure by which the remaining claims can be expeditiously and properly settled.

BACKGROUND

Early in 1942, the War Department, acting under Presidential order, ordered the exclusion of all persons of Japanese ancestry from the Pacific coast of the continental United States, Alaska, and a portion of Arizona. Most of these people were removed to relocation centers administered by the War Relocation Authority. They were joined later by over 1,000 persons evacuated from Hawaii. For approximately 2½ years these American citizens and their alien parents, more than 100,000 in number, were exiled from their homes.

After January 2, 1945, the majority of them were permitted to return to their homes in the evacuated areas.

The chief military justification for the removal of these people was the war with Japan, the possibility of the existence of a disloyal element in their midst, the critical military situation in the Pacific which increased uneasiness over the possibility of espionage or sabotage, and the lack of time and facilities for individual loyalty screening. The persons evacuated were not individually charged with any crime or with disloyalty and subsequent experience has clearly demonstrated that the vast majority of them were and are good Americans.[1]

The evacuation orders, in many instances, gave the people affected desperately little time in which to settle their affairs. The governmental safeguards which were designed to prevent undue loss were somewhat tardily instituted, were not at once effectively publicized among the evacuees, and were never entirely successful. Merchants disposed of their stocks and businesses at sacrifice prices. Many individuals sold personal possessions for a small portion of their value. A large number had to accept inadequate arrangements for protection and management of property.

Continued exclusion increased the losses. Private homes and buildings in which evacuees stored their property were broken into and vandalized. Persons entrusted with the management of real property mulcted the owners. Tenants failed to pay rent, converted property to their own use, and committed waste. Prohibited from returning to the evacuated areas even temporarily to handle property matters, the evacuees were unable to protect themselves adequately.

In relocation centers the only income opportunities lay in relocation center employment at wage rates of $12 to $19 per month, plus small clothing allowances. As a result many found themselves unable to meet insurance premiums, mortgage, and tax payments, and they therefore lost substantial equities.

PRIOR CONGRESSIONAL ACTION AND REASONS THEREFOR

After the end of hostilities of World War II, and in 1948, Congress enacted Public Law 886 (80th Cong.) authorizing the Attorney General to adjudicate certain claims resulting from evacuation of certain persons of Japanese ancestry under military orders. The report of the House Committee on the Judiciary, on this legislation sets forth the reasons for compensating these victims of military necessity in the following language (H. Rept. No. 732, 80th Cong.):

"The committee was impressed with the fact that, despite the hardships visited upon this unfortunate racial group brought about by the then prevailing military necessity, there was recorded during the war not one act of sabotage or espionage attributable to those who were the victims of the forced relocation. Moreover, statistics were produced to indicate that the percentage of enlistments in the Armed Forces of this country by those of Japanese ancestry of eligible age exceeded the nationwide percentage. The valiant exploits of the 442d Regimental Combat Team, composed entirely of Japanese-Americans and the most decorated combat team in the war, are well known. It was further adduced that the Japanese-Americans who were relocated proved themselves to be, almost without exception, loyal to the traditions of this country, and exhibited a commendable discipline throughout the period of their exile. * * *

"The committee considered the argument that the victims of the relocation were no more casualties of the war than were many millions of other Americans who lost their lives or their homes or occupations during the war. However, this argument was not considered tenable, since in the instant case the loss was inflicted upon a special racial group by a voluntary act of the Government without precedent in the history of this country. Not to redress these loyal Americans in some measure for the wrongs inflicted upon them would provide ample material for attacks by the followers of foreign ideologies on the American way of life, and to redress them would be simple justice."

TWENTY-FOUR THOUSAND, ONE HUNDRED AND THREE CLAIMS FILED

In accordance with the provisions of Public Law 886, the Department of Justice established a Japanese Claims Section and invited all evacuees to file their claims. By January 3, 1950, the statutory deadline for filing claims, 24,103 claims were submitted to the Department, totaling $129,996,589.

PROCESSING OF CLAIMS

The processing of claims started slowly. Because of the tremendous size of the program, detailed plans and systematized procedures had to be developed. An office force, including a sufficient number of qualified attorneys, had to be set up. To facilitate matters, the Department of Justice, in addition to its Washington, D. C., office, opened offices in the cities of Los Angeles and San Francisco, Calif.

In the calendar year 1949, 21 claims were adjudicated by the Department. In the calendar year 1950, 211 claims were adjudicated. During this period it became apparent that, because of the formalized procedures required by the Evacuation Claims Act, the processing of claims would be both slow and administratively expensive.

The slowness and high costs caused the Congress and the Department of Justice to seek a more expeditious and less expensive method of handling these claims. As a result, the Department proposed a compromise settlement plan which would authorize the Attorney General, on an informal basis, to compromise and settle the smaller claims for amounts not in excess of $2,500. Congress adopted this proposal by enacting Public Law 116, 82d Congress. (See Congressman RODINO'S H. Rept. 496, 82d Cong., on this legislation.)

Thereafter, the Department of Justice was able to increase its production schedule to more than 1,000 claims per month and by mid-1953 substantially all of the claims which could be compromised under the $2,500 limitation were processed and awards made. Administrative costs per claim were greatly reduced.

PRESENT STATUS OF CLAIM PROCESSING

At the time of the hearings, the committee received the following statistics from the Department of Justice, showing the number

[1] The subcommittee could not fail to be impressed with the fact that, despite the suspicions in which they were held, there was not one recorded act of sabotage or espionage which was attributable to them. Moreover, the percentage of enlistments in the Armed Forces by those of Japanese ancestry exceeded the nationwide percentage. Where the average casualty rate of the American Army was less than 25 percent, the casualty rate of the 442d Regimental Combat Team, composed entirely of Japanese-Americans, was 308 percent. No other group of regimental size during World War II won more than 3 Presidential distinguished unit citations; the 442d Japanese-American regiment won 7.

of claims settled and the amounts awarded from 1948 to 1955:

	Number of claims	Amount claimed	Amount awarded
Compromised	20,211	$69,185,472.41	$24,259,528.05
Adjudicated	688	3,404,503.14	1,421,396.89
Dismissed	1,088	3,810,998.68	
Total	21,987	76,400,974.23	25,680,924.94

It should be noted that the total amount originally claimed, including those dismissed, was $76,400,974.23. The total amount awarded was $25,680,924.94. The Government, therefore, has been settling claims for about one-third of the amount originally claimed.

TWO THOUSAND AND SEVENTY-SEVEN REMAINING CLAIMS

Two thousand and seventy-seven claims remain to be processed, totaling over $55 million. On a dollar basis, they represent substantially all of the larger claims and, under the present law, since they are too large to be compromised, they can only be settled by adjudication.

The breakdown of the remaining claims is as follows:

Category	Number	Amount involved
To $6,800	632	$1,952,908.43
$6,800 to $10,000	222	1,886,310.04
$10,000 to $25,000	654	10,689,524.15
$25,000 to $50,000	334	11,605,553.68
$50,000 to $100,000	164	10,974,454.51
$100,000 and over	71	17,942,741.77
Total	2,077	55,051,492.58

ANALYSIS OF BILL

Item I (p. 1, lines 7 to 10; p. 2, lines 1 to 15; p. 5, lines 10 to 16 of bill as introduced)—Authority to Attorney General to compromise and settle all remaining claims regardless of amount claimed

The most important change sought by this legislation concerns the informal compromise settlement of all claims regardless of amount. It is 14 years now since the evacuation began in 1942. Many of the detailed records and documents existing at that time have either been lost or destroyed. Evacuees were given very short notice within which to evacuate, and they could take to the relocation centers only those articles which they were able to carry. Books and records were of course left behind and since whole communities were moved, there was in many instances inadequate protection for the proper safeguarding of property.

Claimants who are without records and documents must now look to other sources for information. With the passage of time, however, available sources of information lessen. Witnesses, who could testify, have moved and their present addresses are unknown; others have died.

Under the compromise procedure, however, the Government will be able to process the claims on the basis of affidavits of witnesses, available records, State and Federal surveys and data, and other satisfactory information. This is, of course, a realistic approach to a most difficult problem. The Department of Justice has acquired voluminous information in its processing of thousands of claims, and, as a result, there have evolved general patterns of information which can be used as guides in the compromise processing of remaining claims. In addition, while this simplified, informal method will offer advantages to claimants, it will also lower the administrative costs per claim to the Government as well as save the administrative costs of a long-continuing program.

Item II (p. 2, lines 20 to 25; and p. 3, lines 1 to 6 of bill as introduced)—Bill recognizes corporate, partnership, association claims, etc., both profit and nonprofit, the majority of whose stockholders were of Japanese ancestry

Under the present law only a person of Japanese ancestry may be compensated for losses resulting from the evacuation and exclusion. A strict interpretation of the word "person" excludes corporations, partnerships, charitable organizations, church congregations, etc. The Attorney General, in instances where the corporation was owned entirely by the individual members of an evacuated or excluded family (so-called family corporation), has gone behind the corporate entity and treated the claims on a pro rata basis, compensating each member of a family for a portion of the loss. Greater difficulty arises, however, with claims involving corporations, church organizations, cemetery groups, and charitable institutions where not all of the membership are persons of Japanese ancestry. In recommending that these entities be recognized under this act, the subcommittee drew a provision (amendment No. 2, supra) which limits relief to those organizations which were substantially owned by people of Japanese ancestry and which can demonstrate that their losses were caused by the evacuation of the Japanese people from the Pacific coast areas.

Item III (p. 3, lines 7 to 17 of bill as introduced)—Bill recognizes internee claims

Immediately after Pearl Harbor, many Japanese aliens were apprehended by the Federal Bureau of Investigation as alien enemies and were interned for questioning and investigation. Unlike other alien enemies who were interned and whose families remained at home to continue their businesses or to care for their properties, the families and friends of the Japanese internees were forced to evacuate when the general evacuation orders became effective. This resulted in losses to the Japanese interned aliens which were not due to their internment but rather were, in fact, due to the evacuation of their families and to the evacuation of the Japanese community as a group. After the Japanese alien internees were investigated they were usually released and sent to relocation centers.

Section 2 (b) (2) of the present law forbids consideration of claims for damage or loss arising out of action by any Federal agency pursuant to the alien enemy law or the Trading With the Enemy Act, so that a loss resulting from the internment of a Japanese alien cannot be compensated for even though the same loss might have occurred if he had not been interned but had been evacuated under military orders. In addition, in situations where the loss would not have occurred but for the subsequent evacuation of the family of the internee, he personally cannot claim because under section 1 of the act as presently worded the loss was not a consequence of his evacuation or exclusion. This provision of the bill would validate the claims of such a detained or interned person.

Item IV (p. 4, lines 16 to 24 of bill as introduced)—Validation of certain late claims

A minor objective of the instant bill which the committee approves is to have considered as timely filed 75 claims which were postmarked prior to midnight January 3, 1950, the last day for filing claims, but which were not received in Washington until after that date. While technically such claims were not filed on time, the claimants involved no doubt acted under the widespread misconception that anything timely mailed is timely filed. This provision of the bill will validate those claims.

Item V (p. 5, lines 17 to 24; p. 6, lines 1 to 21 of bill as introduced)—Bill gives claimants election to either accept Attorney General's compromise or to take claim to Court of Claims for settlement

The bill permits any claimant who is dissatisfied with the determination of the Attorney General to go to the Court of Claims for an adjudication of his claim. Under its provision, he may elect to proceed immediately before the Court of Claims or to process his claim for informal compromise settlement before the Attorney General. In the further event the Attorney General notifies claimant that he will give no further consideration to the compromise settlement of the claim, the claimant may thereafter and within 90 days seek an adjudication in the Court of Claims. The committee, in approving this provision, feels that claimants should have another forum through which to seek relief when they are dissatisfied with the determinations of the Attorney General. The testimony at the hearings indicated that there would not be more than "5 or 6" claimants prosecuting their claims in the Court of Claims.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

STUDY AND INVESTIGATION OF INDIAN EDUCATION IN THE UNITED STATES

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 2195, Senate Joint Resolution 110, directing the Secretary of the Interior to conduct a study and investigation of Indian education in the United States.

I should like to make this statement, if it is proper to do so now: When the action on Senate Joint Resolution 110 has been concluded, it is planned to take up the auto-dealer's-day-in-court bill, S. 3879. At that time I shall suggest the absence of a quorum, so that all Senators may be on notice of the consideration of the bill.

The PRESIDING OFFICER. Senate Joint Resolution 110 will be stated by title.

The LEGISLATIVE CLERK. A joint resolution (S. J. Res. 110) directing the Secretary of the Interior to conduct a study and investigation of Indian education in the United States.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Texas?

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, line 6, after the word "the", to strike out "United States" and insert "continental United States and Alaska"; on page 2, line 2, after the word "schools", to strike out "A major share of such study and investigation shall consist of original

educational research, and original inquiry into the interests and desires of Indian and non-Indian citizens in the field of Indian education"; in line 7, after the word "authorized", to strike out "to procure the temporary or intermittent services of experts, consultants, or organizations thereof, in accordance with the provisions of section 15 of the act of August 2, 1946 (60 Stat. 810). Such experts or consultants shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them while performing such services" and insert "to enter into contracts in accordance with the provisions of the Johnson-O'Malley Act of June 4, 1936 (49 Stat. 1458; 25 U. S. C. 452)"; and in line 16, after the word "after", to strike out "the effective date" and insert "funds are made available to carry out the purposes", so as to make the joint resolution read:

Resolved, etc., That the Secretary of the Interior (hereinafter referred to as the "Secretary"), acting through the Bureau of Indian Affairs, is authorized and directed to conduct a study and investigation of Indian education in the continental United States and Alaska, including a study and investigation of (1) the education problems of Indian children from non-English-speaking homes, and (2) the possibility of establishing a more orderly, equitable, and acceptable program for transferring Indian children to public schools.

SEC. 2. The Secretary, in carrying out the provisions of this joint resolution, is authorized to enter into contracts in accordance with the provisions of the Johnson-O'Malley Act of June 4, 1936 (49 Stat. 1458; 25 U. S. C. 452).

SEC. 3. Not later than 2 years after funds are made available to carry out the purposes of this joint resolution, the Secretary shall submit to the Congress a complete report of the results of such study and investigation, together with such recommendations as he deems desirable.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary for carrying out the purposes of this joint resolution.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment.

Mr. O'MAHONEY. Mr. President, in support of the joint resolution, I may say that it was unanimously reported by the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, and was unanimously endorsed and ordered to be reported to the Senate by the full committee.

The purpose of the joint resolution is to broaden the functions of the Johnson-O'Malley Act for the education of Indians, particularly Indian children. I feel certain there is no objection to the joint resolution, but if there is I shall be glad to make a statement in explanation of it.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S. J. Res. 110) was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 417. An act for the relief of Pearl O. Seilaz;

S. 530. An act for the relief of the Sacred Heart Hospital;

S. 1034. An act for the relief of Mr. and Mrs. Donald D. Parrish.

S. 1414. An act for the relief of James Edward Robinson;

S. 2016. An act to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of Lawrence F. Kramer;

S. 2152. An act for the relief of the estate of Susie Lee Spencer;

S. 2582. An act to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of William E. Stone for disability retirement as a Reserve officer or Army of the United States officer under the provisions of the act of April 3, 1939, as amended;

S. 3472. An act for the relief of Patricia A. Pembroke; and

S. 3945. An act for the relief of Walter C. Jordan and Elton W. Johnson.

The message also announced that the House had agreed to the amendment of the Senate to each of the following joint resolutions of the House:

H. J. Res. 535. Joint resolution for the relief of certain aliens; and

H. J. Res. 566. Joint resolution to waive certain provisions of section 212 (a) of the Immigration and Nationality Act in behalf of certain aliens.

The message further announced that the House had severally agreed to the amendments of the Senate to the following joint resolutions of the House:

H. J. Res. 533. Joint resolution to facilitate the admission into the United States of certain aliens;

H. J. Res. 534. Joint resolution to waive certain provisions of the Immigration and Nationality Act in behalf of certain aliens;

H. J. Res. 553. Joint resolution waiving certain subsections of section 212 (a) of the Immigration and Nationality Act in behalf of certain aliens;

H. J. Res. 554. Joint resolution for the relief of certain aliens; and

H. J. Res. 555. Joint resolution to facilitate the admission into the United States of certain aliens.

AUTOMOBILE DEALERS' DAY IN COURT

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 2095, Senate bill 3879, the so-called automobile-dealers'-day-in-court bill.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 3879) to supplement the antitrust laws of the United States, in order to balance the power now heavily weighted in favor of automobile manufacturers, by enabling franchised automobile dealers to bring suit in the district courts of the United States to recover twofold damages sustained by reason of the failure of automobile manufacturers to act in good faith in complying with the terms of franchises or in terminating or not renewing franchises with their dealers.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, this is a very important piece of proposed legislation. I think all Senators should be here, if possible, to hear the explanation which will be made by the distinguished Senator from Wyoming [Mr. O'MAHONEY].

I ask the cooperation of the attachés of the Senate in notifying all Senators.

I suggest the absence of a quorum; and I announce that the consideration of the bill will not be proceeded with until a quorum has been obtained.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Hill	McNamara
Anderson	Holland	Millikin
Beall	Jackson	Murray
Capehart	Johnson, Tex.	Neuberger
Chavez	Johnston, S. C.	O'Mahoney
Clements	Kefauver	Pastore
Cotton	Kennedy	Payne
Dirksen	Knowland	Sparkman
Eastland	Laird	Stennis
Ellender	Long	Thye
Flanders	Magnuson	Watkins
Gore	Martin, Iowa	Wofford
Hayden	McClellan	

Mr. CLEMENTS. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Texas [Mr. DANIEL], the Senator from Oregon [Mr. MORSE], the Senator from Georgia [Mr. RUSSELL], and the Senator from Florida [Mr. SMATHERS] are absent on official business.

The Senator from North Carolina [Mr. ERVIN] is absent because of a death in his family.

The Senator from West Virginia [Mr. NEELY] is necessarily absent.

Mr. SALTONSTALL. I announce that the Senators from Connecticut [Mr. BUSH and Mr. PURTELL], the Senator from Maryland [Mr. BUTLER], and the Senator from Nebraska [Mr. HRUSKA] are absent on official business.

The Senator from Arizona [Mr. GOLDWATER] is necessarily absent in order to attend the wedding of his daughter.

The Senator from New York [Mr. IVES] is absent because of illness.

The Senator from Wisconsin [Mr. WILEY] is necessarily absent.

The PRESIDING OFFICER. A quorum is not present.

Mr. LAIRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After a little delay, Mr. ALLOTT, Mr. BARRETT, Mr. BENDER, Mr. BENNETT, Mr. BRICKER, Mr. BRIDGES, Mr. BYRD, Mr. CARLSON, Mr. CASE of New Jersey, Mr. CASE of South Dakota, Mr. CURTIS, Mr. DOUGLAS, Mr. DUFF, Mr. DWORSHAK, Mr. FREAR, Mr. FULBRIGHT, Mr. GEORGE, Mr. GREEN, Mr. HENNINGS, Mr. HICKENLOOPER, Mr. HUMPHREY, Mr. JENNER, Mr.

KERR, Mr. KUCHEL, Mr. LANGER, Mr. LEHMAN, Mr. MALONE, Mr. MANSFIELD, Mr. MARTIN of Pennsylvania, Mr. MCCARTHY, Mr. MONRONEY, Mr. MUNDT, Mr. POTTER, Mr. ROBERTSON, Mr. SALTONSTALL, Mr. SCHOEPPEL, Mr. SCOTT, Mrs. SMITH of Maine, Mr. SMITH of New Jersey, Mr. SYMINGTON, Mr. WELKER, Mr. WILLIAMS, and Mr. YOUNG entered the Chamber and answered to their names.

The PRESIDING OFFICER (Mr. KENNEDY in the chair). A quorum is present. The bill is open to amendment.

Mr. O'MAHONEY. Mr. President, today the Senate is considering what I consider to be one of the most important measures to come before the Senate at this session of Congress. When I say that I am cognizant of the fact that there are a great many interested onlookers in the gallery. They are citizens of the United States who have come to Washington to watch a legislative body perform.

I wish them to know that the roll has been called, that Senators have come into the Chamber, have answered to their names, and that they are aware of the importance of the measure the Senate is considering. They know that the measure has come before the Senate after hearings were held over a period of weeks by a subcommittee of the Judiciary Committee. They were well attended hearings; they were attended not only by members of the subcommittee and of the committee, but by other Members of the Senate.

Our guests in the gallery today should be aware of the fact that that is why I am making these remarks. All of that preliminary work has been done, and today, as chairman of the Subcommittee on Antitrust and Monopoly Legislation, of the Committee on the Judiciary of the Senate, I am making the record.

A printed report has been filed by the committee. It has been distributed to every Member of the Senate. I have personally addressed letters to the Members of the Senate to apprise them of the contents of the committee report.

Therefore, the slim attendance on the floor of the Senate today, occasioned by the fact that Members are aware of what the problem is, and have come into the Chamber and registered their attendance and then have gone to other committee meetings, is not at all an indication that the Members of the Senate are not giving close attention to the questions and problems which are presented by the bill.

Mr. LANGER. Mr. President, will the Senator yield?

Mr. O'MAHONEY. I yield.

Mr. LANGER. Mr. President, I wish to say that in all my experience in the Senate, during the 15 years I have been here, I have never known a subcommittee to go into a subject more thoroughly and more completely than the subcommittee headed by the distinguished Senator from Wyoming went into the subject now pending before the Senate.

Through its counsel and staff, the subcommittee has made a clear-cut analysis of this great problem that confronts so many people in the United States. I am happy to have been associated in this matter with the Senator from Wyoming, and I am delighted to note the high and consistently fine job he has done to get a clear understanding of this great problem before the American people. I want the people to know that, and I assure the Senator of my continued wholehearted cooperation.

Mr. O'MAHONEY. I thank the Senator from North Dakota, who, as a member of the Committee on the Judiciary, has been very effective in the presentation of the pending bill.

In order to confirm what he has said, I call attention to the fact that I hold in my hand a file of letters which I have received within the past week from Members of the Senate to whom I had sent the report. In these letters they tell me of their favorable reaction to the report.

There are many students in the gallery today, and I wish them to know that under the procedure which the Senate follows, a printed report must be filed by every committee on every bill it reports. The reports go to the Senators in their offices, where they are examined.

Mr. MONRONEY. Mr. President, will the Senator yield?

Mr. O'MAHONEY. I yield.

Mr. MONRONEY. I should like to join the distinguished Senator from North Dakota [Mr. LANGER] in expressing my appreciation for the fine job the distinguished chairman of the subcommittee has done in presenting this bill to the Senate. We know of the tireless work which was done by the subcommittee in studying the problem. We also know of the cooperation between the distinguished Senator's subcommittee and the Subcommittee on Automobile Marketing Practices of the Committee on Interstate and Foreign Commerce.

The two subcommittees have worked along somewhat parallel lines in hearing evidence. We heard testimony concerning practices in the automobile manufacturing industry from many automobile dealers who have suffered under many of the conditions which the pending bill seeks to correct.

We have also had a wide response to a questionnaire sent out by our committee. It was the widest response which has ever been received, on a voluntary basis, to a questionnaire sent out by a Government agency, and the responses were received from more than 20,000 automobile dealers. The answers to the questionnaire have been made available in detail to the subcommittee of the Judiciary Committee, in an exchange of information and cooperation between the staffs of the two subcommittees.

It would be hard for me to recall any proposed legislation which has had more careful and considerate study than the bill now pending before the Senate.

Mr. O'MAHONEY. Mr. President, let me add one more comment to what the Senator from Oklahoma has said. This problem is one of interstate commerce. It is only natural, therefore, that the committee of which he is a member, and the subcommittee of which he is chairman should study the problems which affect automobile dealers throughout the country, and that his subcommittee should look into that subject.

There has developed in the United States a situation which is becoming more and more widespread and better and better understood, whereby a comparatively few manufacturers hold a position of power in dealing with small businesses throughout the United States in every State, and because of disproportionate economic power, hold almost complete control over the activities of the small automobile dealers.

This has been revealed in the questionnaires to which the Senator from Oklahoma [Mr. MONRONEY] has just referred. Questionnaires were sent out by the committee to automobile dealers in every State of the Union. The dealers have answered voluntarily and have told us the conditions out of which two bills have issued, the bill which I am about to explain, on the one hand, and the bill which the Senator from Oklahoma and his colleagues on the Committee on Interstate and Foreign Commerce have reported to the Senate. So the record should be clear that there has been a great backlog of information built up which is known to the manufacturers and known also to the dealers and to other small-business people.

The manufacturers have learned so much from these hearings that they have already taken steps to modify the conditions in many respects about which the automobile dealers have complained. I am happy to have seen that development, and I wish to congratulate the Senator from Oklahoma on the great work he has done in this matter.

Mr. KEFAUVER. Mr. President, will the Senator from Wyoming yield?

Mr. O'MAHONEY. I yield.

Mr. KEFAUVER. As a member of the subcommittee which held hearings on this question, I had the pleasure of being present at some of the hearings, and I wish heartily to congratulate the distinguished acting chairman of the subcommittee upon accomplishing two things in what seemed to be a very confused and almost hopeless problem.

I have been very much impressed with the fact that after the full statements of many dealers had been made, the automobile companies themselves changed their method of doing business, reformed their contracts, and gave more liberal consideration to the dealers on a voluntary basis.

I congratulate the Senator upon arriving at and preparing the provision contained on page 2 of the bill which sets forth the method and the way the contracts between the automobile companies and the dealers shall be carried out. That provision seems to me to be eminently fair to the automobile companies as well as to the dealers.

Mr. O'MAHONEY. I thank the Senator from Tennessee. It was intended to be fair to the manufacturers as well as to the dealers.

Mr. KEFAUVER. I think it will bring about a more satisfactory relationship between the two parties, and it will result in the dealers having the protection to which they are entitled. I know it will stabilize the industry all over the United States.

Mr. O'MAHONEY. I thank the Senator from Tennessee.

Mr. President, I desire briefly to explain why the committee, after long

hearings, felt that it was necessary to report this bill and to have it considered by the Senate.

The necessity arose out of the fact that by reason of technological developments during the past 25 to 50 years the old boundaries which separated the people into narrow trading areas have practically disappeared. The airplane, to mention one type of transportation, and the automobile have helped to break down the geographical boundaries of our economic development. So it comes about that very great institutions are the producers of manufactured articles which are sent to every State of the Union.

There has been a steady concentration of economic power in the hands of those who are at the head of the various manufacturing institutions, a concentration which is so great that scarcely a day passes that the country does not receive through the newspapers evidence of what is transpiring. We have evidence upon the floor of the Senate in the bills we pass. The Government has to subsidize the farmers. The Government has to subsidize small business. A few years ago, under the Legislative Reorganization Act, it was provided that special committees should no longer be allowed, and the Committee on Small Business which had existed through many sessions of Congress was by that law abolished. But the demand from the rank and file of the people throughout the United States was such that the very next Congress had to reestablish the Committee on Small Business.

This is a problem which we have not settled, and I believe, Mr. President, that we are presenting to the Senate today a bill which will open the door to the solution of the great problem of the relationship of big business to small business. I have personally been accused of being a foe of big business in itself. I am not. In this bill which we present I think the Judiciary Committee has given evidence that it is not at all antagonistic to big industry as such. We have not proposed here, for example, that any limitation be placed upon any business. We have not proposed that any new penalty be applied to big business. All in the world we have done is to provide that the automobile dealer who regards himself as an independent businessman, who has invested his money in the establishment of his business, shall have his day in court whenever a question arises between the dealer and the manufacturer with respect to the exercise of good faith by the manufacturer in the carrying out of the contract, or the franchise, as it is sometimes called.

Before the hearing was held, in most cases these franchises were year to year franchises, terminable at will. The independent local automobile dealers—there are more than 40,000 of them in the United States—who had invested, upon the average, not less than $100,000, found themselves absolutely unable to defend themselves against the economic power of the huge national industry from which they were obtaining the automobiles they were distributing to the public. They were economically outweighed. An automobile dealer having an investment, even, of $500,000 or $1,000,000 is not in the same class with the manufacturer whose assets are counted sometimes in the billions of dollars. So the small dealer was utterly unable to defend himself when, as he felt, the good faith of the franchise was violated.

Decision after decision was made in the courts, similar to the decision which has been quoted in the report submitted by the committee to the Senate. I read from page 3 of the report a part of the decision of the Circuit Court of Appeals for the Fourth Circuit in 1933 in the case of Ford Motor Co. against Kirkmyer Motor Co. This is what the court said:

> While there is a natural impulse to be impatient with a form of contract which places the comparatively helpless dealer at the mercy of the manufacturer, we cannot make contracts for parties or protect them from the provisions of contracts which have been made for themselves.

I call attention to the fact that it was the judgment of the court that the form of contract which was used in that case, to use the language of the court, "places the comparatively helpless dealer at the mercy of the manufacturer."

Similar decisions have been rendered by the courts throughout the country. The result is that in the bill which is being considered by the Senate today the dealer for the first time is given his day in court. The proposed legislation creates a cause of action in the Federal courts where none previously existed.

Yet who can deny that the automobile business is a national business as well as a local business? Who can deny that although the automobiles are made at 1, 2, 3, or 4 different centers, they are transported to every State and to almost every community in the land? There is a combination of small local business and of big national business. It is interstate commerce. Yet up to this hour the independent dealers in the various States have been utterly without any right to go into the Federal courts to defend their rights.

So the bill affirmatively imposes a duty of good faith upon the parties to the franchise. Good faith must be shown in situations in which the manufacturer, under present conditions, by reason of his great economic power, is able to intimidate small dealers. We are not seeking to provide any legislation to punish intimidation of that kind. We are asking for no new criminal law. We are merely asking for a civil review. We are saying to the automobile dealers upon the one hand, and to the manufacturers on the other hand, that disputes over the good faith of these contracts should be settled in the courts established by the Constitution of the United States.

Objection is made to that. The manufacturers seem to feel that Congress should not pass a law opening the doors of the Federal courts to the determination of issues which are clearly within the authority of the Constitution and of Congress. The result of the bill will be, in my judgment, to promote a new era of much better feeling than has ever before existed. I see no ground whatsoever upon which the objection can be raised to the establishment of this new right of self-protection. This is demonstrated by the words of some of the automobile dealers themselves.

I hold in my hand the text of a statement made by Henry Ford II, president of the Ford Motor Co., before the Subcommittee on Automobile Marketing Practices of the United States Senate Committee on Interstate and Foreign Commerce, at Washington, D. C., on Monday, March 12, 1956. That is the subcommittee over which the junior Senator from Oklahoma [Mr. MONRONEY] presided so ably.

The tenor of the statement is that the motor companies, the big manufacturers, are themselves competent to deal with the matter. I have no challenge at all to make of the intent of the Ford Motor Co. and of Mr. Ford to bring about better relations with the dealers than have existed. But he has made clear in his testimony that while he is against bootlegging, against false registration, and against false and misleading advertising, and is opposed to price packing and other abuses which have crept in, at the same time he lays particular emphasis upon the fact that the company itself can settle disputes which may arise. I shall read from page 18 of the statement which was published by the Ford Motor Co.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. O'MAHONEY. I am very glad to yield.

Mr. CURTIS. I am acquainted with a great many automobile dealers. I have talked with many of them about the problems they are facing. Many of them, in whom I have confidence, feel that they have faced rather harsh and unjust situations at times.

My inquiry is, Why, in drawing the bill, was not the obligation of good faith written into the bill so as to apply to both parties to the contract?

Mr. O'MAHONEY. I think it is. Under the bill, good faith is a matter for the jury to determine, and the manufacturer is perfectly free to introduce any evidence whatsoever with respect to the lack of good faith on the part of the dealer. If there should be such, that would be a defense, without the slightest doubt.

Mr. CURTIS. That does not answer my question. Why should the Senate write a bill which has a specific requirement of good faith on the part of one party to the contract, but not both parties?

Mr. O'MAHONEY. I think the bill does refer to both parties; it could not be otherwise.

Mr. CURTIS. Will the Senator point that out in the bill?

Mr. O'MAHONEY. Certainly. I read from page 2 of the bill, commencing on line 21:

> The term "good faith" shall mean the duty of the automobile manufacturer, its officers, employees, or agents to act in a fair, equitable, and nonarbitrary manner so as to guarantee the dealer freedom from coercion, intimidation, or threats of coercion or intimidation, and in order to preserve and protect all the equities of the automobile dealer which are inherent in the nature of the relationship between the automobile dealer and automobile manufacturer.

Mr. CURTIS. That language deals with the manufacturer.

Mr. O'MAHONEY. The inherent relationship—the nature of the relationship between the automobile dealer and the automobile manufacturer—necessarily depends upon mutual good faith. There could not possibly be a case decided against a manufacturer in which the manufacturer was suffering from a lack of good faith on the part of the dealer. I want to make that statement just as clear as possible.

Mr. CURTIS. I have the same confidence in our system of courts that the Senator from Wyoming has, but I am still faced with the question as to why the Congress should specifically impose the requirement of good faith on the part of one party to a contract, but not both parties.

Mr. O'MAHONEY. I will say to the Senator there was no intention of withdrawing from the manufacturer any defense on the ground that the dealer himself had violated good faith. However, I think it is obvious that if a dealer is given the authority, under the bill, to come into court and test the termination of a contract or franchise, the termination of which is in the hands of the manufacturer, it becomes immediately available to the manufacturer to show a lack of good faith on the part of the dealer.

Mr. CURTIS. Does not the law of contract generally require good faith on the part of both parties, without legislation?

Mr. O'MAHONEY. The point is this: Under franchises which are now in force, the manufacturers have the right to terminate the contracts. We are seeking to preserve the defense of the dealer in a termination which is not made in good faith. If it should appear that the dealer himself had performed some act of bad faith, it would be impossible for him to stay in court for 30 minutes.

Mr. CURTIS. I am one of those individuals who thoroughly believe that the vast majority of automobile dealers and other businessmen are not guilty of bad faith, especially intentional bad faith; but I still raise the question as to the propriety of Congress not making the terms apply equally to both sides of a contract.

Mr. O'MAHONEY. Because the franchises with which we are dealing are not contracts; they are terminable at the will of the manufacturers.

Mr. CURTIS. Did I understand the Senator to say they are not contracts?

Mr. O'MAHONEY. No; in many cases they are merely a kind of license, because of the distribution of economic power as between the two parties involved. Moreover, the franchises are not presently enforceable. The committee has a whole list of cases in which that question was decided by the courts.

Mr. CURTIS. Will the distinguished Senator from Wyoming yield for another question?

Mr. O'MAHONEY. Yes; I shall be glad to yield.

Mr. CURTIS. On page 3, line 1, of the bill, there appears the language "all the equities of the automobile dealer." What is included in the term "all the equities"?

Mr. O'MAHONEY. All the equities that arise out of the franchise as written between the parties.

Mr. CURTIS. Would a dealer holding a franchise or a contract who happens to have committed practices which appear to be against the interests of all other dealers, such as supplying bootleg dealers with cars, have equities in his contract or franchise?

Mr. O'MAHONEY. Is the Senator referring to a person who supplies bootleg cars?

Mr. CURTIS. A holder of a franchise or a contract who is guilty of supplying cars to unauthorized dealers. Would he have equities in his contract with the manufacturer that would be protected by this bill?

Mr. O'MAHONEY. He certainly would not. He would not dare to go into court.

Mr. CURTIS. He would not have equities?

Mr. O'MAHONEY. He would not dare to go into court, because such an activity on his part would obviously be bad faith.

Mr. CURTIS. Would it be a violation of any law?

Mr. O'MAHONEY. It would be bad faith, because of the nature of the franchise.

Mr. CURTIS. But what I am getting at is, Suppose the dealer has not violated the law, and perhaps not his contract—I do not know what the contract may provide—but has used his franchise to secure cars from the manufacturer, and has, in turn, disposed of them at cut-rate prices to unauthorized dealers. The question is, Does he have an equity in his franchise that the bill will protect?

Mr. O'MAHONEY. I would feel that such a person would have no equity at all before the court. Even if he brought suit, the suit could not stand up.

Mr. BRICKER. Mr. President, will the Senator yield for a question on that point?

Mr. O'MAHONEY. I shall be glad to yield.

Mr. BRICKER. What would be the proof of his bad faith? He would not have violated his franchise or his contract with the dealer, or any law.

Mr. O'MAHONEY. That was not the situation with which I understood the Senator from Nebraska was dealing.

Mr. CURTIS. Yes. That is what I intended.

Mr. O'MAHONEY. In such a case, of course, suit could be brought, and the question of bad faith or good faith would be one for the jury to decide.

Mr. BRICKER. There is no question of bad faith when a man does not violate the terms of his contract with the manufacturer, and when he does not violate the law in any way. He is permitted to sell cars in any market he desires, at any price he wants to quote. In fact, the Department of Justice prevented the limitation of territory in the fixation of prices in a dealer's franchise, under the antitrust laws. So he is within the law. He is within the terms of his franchise entirely. It is in that field that the question first arose as to the bootlegging of automobiles. There is no law or term of his contract that he is violating. Yet he is frozen in that right under the bill, as I read it, and is entitled to triple damages if the company tries to stop him from selling cars in such a channel.

Mr. O'MAHONEY. Let me say first there is no provision for triple damages in the bill.

Mr. BRICKER. Double damages, then. They are punitive anyway.

Mr. O'MAHONEY. But the question of having the case decided in the Federal courts is the paramount question, as the committee has seen it.

Mr. BRICKER. That right applies to any citizen of any State except Michigan, if the companies are located in Michigan.

Mr. O'MAHONEY. I would not say that.

Mr. BRICKER. A citizen of one State has a right to sue the citizen of another State in a Federal court.

Mr. O'MAHONEY. That is true, but there should be considered the economic strength of the manufacturer, upon the one hand, and the puny economic power of the dealer, upon the other hand. Under the provisions of the bill, in my opinion, in such a case as that cited the dealer could not go into court and present to a jury a case on which he would be able to obtain a verdict favorable to him.

Mr. BRICKER. I thank the Senator from Wyoming.

Mr. O'MAHONEY. In my mind there is no question that the committee was of the opinion that there should be good faith on all sides.

Mr. CURTIS. Mr. President, will the Senator from Wyoming yield further?

Mr. O'MAHONEY. I yield.

Mr. CURTIS. What right does a dealer have in court now?

Mr. O'MAHONEY. He has no rights in the Federal court.

Mr. CURTIS. Does the Senator from Wyoming mean a dealer cannot bring suit in a Federal court?

Mr. O'MAHONEY. No.

Mr. CURTIS. Why?

Mr. O'MAHONEY. Because the franchises have been such that the cases are State cases; and the franchises have been such that the dealer has practically written away his rights in the matter and any case he might have.

Mr. BRICKER. In his franchise, does the dealer waive his constitutional right to bring suit in a Federal court? I should like to see some of those franchises.

Mr. O'MAHONEY. Let me read to the Senator from Ohio what the report says about one of the cases:

> Representative of the thinking of the courts is the decision in *Ford Motor Co.* v. *Kirkmyer Motor Co.* (65 F. 2d 1001 (C. C. A. 4, 1933)), where the court stated:
>
> "While there is a natural impulse to be impatient with a form of contract which places the comparatively helpless dealer at the mercy of the manufacturer, we cannot make contracts for parties or protect them from the provisions of contracts which have been made for themselves. Dealers doubtless accept these one-sided contracts because they think that the right to deal in the product of the manufacturer, even on his terms, is valuable to them; but after they have made such contracts, relying upon the good faith of the manufacturer for the protection which the contracts do not give they cannot, when they get into trouble, expect

the courts to place in the contract the protection which they themselves have failed to insert."

There is case after case of that kind—showing that in the present state of the law, the dealer is absolutely at the mercy of the manufacturer. There are cases in which the franchises are terminable without causes, after the dealers have invested large amounts of capital of their own.

Let me refer to the case of *J. R. Watkins Co.* v. *Rich* (254 Michigan 82, 235 N. W. 845 (1931)):

It being the law that contracts terminable at will are binding on both parties until right of cancelation reserved is exercised by cancelation on the part of one or the other; provided further, that the option to terminate at will must be exercised in good faith.

That case was cited.

Mr. BRICKER. Mr. President, will the Senator from Wyoming yield for a further question?

The PRESIDING OFFICER (Mr. WOFFORD in the chair). Does the Senator from Wyoming yield to the Senator from Ohio?

Mr. O'MAHONEY. I yield.

Mr. BRICKER. At the bottom of page 3, I note that the case of Ford Motor Co. against Kirkmyer was brought in Federal court; and I note that the case of McMaster against Ford Motor Co. was brought in Federal court; and I notice that the case of Bushwick-Decatur Motors, Inc., against Ford was brought in Federal court. That confirms my belief that the Constitution of the United States gives a citizen of one State the right to file suit in a Federal court against a citizen of another State.

Mr. O'MAHONEY. Of course that is correct. But because of the nature of the franchise, the dealer was without remedy.

Mr. BRICKER. Does the Senator from Wyoming mean that the dealer could not bring suit in Federal court?

Mr. O'MAHONEY. No; I do not mean that. But I mean that in the Federal courts the decisions were always against the dealers, because in the contracts they signed they practically waived their rights.

Mr. BRICKER. Mr. President, will the Senator from Wyoming yield for a further question?

Mr. O'MAHONEY. Certainly.

Mr. BRICKER. Where is the record of the hearings on this bill, so that I may refer to some of those cases?

Mr. O'MAHONEY. I have before me a part of the record.

Mr. BRICKER. That is the record of the investigation which the Senator from Wyoming conducted, is it not?

Mr. O'MAHONEY. Yes.

Mr. BRICKER. It is not a record of hearings on this bill, is it?

Mr. O'MAHONEY. No.

Mr. BRICKER. Was any record made in regard to the provisions of the pending bill?

Mr. O'MAHONEY. Not the pending bill. But the committee was of the opinion that the hearings on the investigation were so thorough and went into so many different angles, that those hearings constituted the basis for the bill.

Mr. BRICKER. But there was no hearing in regard to the meaning in equity of the bill, as determined by the nature of the relationship; and there was no hearing on the legality of double damages; and there was no hearing on what the word "commerce" means, as used in the bill; and there was no hearing regarding the definition of the term "automobile dealer," or regarding the rights or obligations of the manufacturer and the dealer. Is that correct?

Mr. O'MAHONEY. Most of the subjects the Senator from Ohio has mentioned are already so clearly defined that no hearings upon them would be necessary.

But upon the major question the Senator from Ohio has asked—namely, whether a specific hearing was held upon the provisions of this bill—the answer is "No," because the committee felt it was unnecessary to have a hearing, and because following the hearing in the case of the manufacturers, there was an announcement of a most significant change and an important modification of the dealer relationship which theretofore had been in effect.

Mr. BRICKER. Mr. President, will the Senator from Wyoming yield once more?

Mr. O'MAHONEY. Yes, indeed.

Mr. BRICKER. Would the Senator from Wyoming be willing to accept to subsection (e), on page 2 of the bill, an amendment to include dealers in the requirement of good faith and in the protection of the equities, and to require obligations on the part of the dealers toward the manufacturers, as well as the obligations of manufacturers toward the dealers?

Mr. O'MAHONEY. I have conferred with the chairman of the House Committee on the Judiciary, who introduced in the House a companion bill to this one. He and I agreed that hearings would be held in the House committee. So I would prefer that matters of the kind referred to by the Senator from Ohio await the House committee hearings.

But I have no hesitation in saying that if the pending bill does not make the matter clear, and if the legislative record we are now building does not make it clear, the committee in reporting the bill intended that good faith should be exercised by both parties to the franchise.

Of course I would be very glad to review any amendment which might be suggested. But I give the Senator from Ohio my assurance that hearings will be held by the House committee, and consideration will be given there to such amendments.

Mr. WATKINS. Mr. President——

Mr. BRICKER. Mr. President, will the Senator from Wyoming yield further?

Mr. O'MAHONEY. Mr. President, the Senator from Utah has risen. Will the Senator from Ohio pardon me if I yield at this time to the Senator from Utah?

Mr. BRICKER. That is perfectly all right. I shall recur a little later to the questions I have in mind.

Mr. WATKINS. Mr. President——

Mr. O'MAHONEY. I yield to the Senator from Utah.

Mr. WATKINS. Although I am in favor of the general objectives of the bill, since I have heard the discussion it seems to me that probably the bill should be amended in order to require that good faith be exercised on the part of the dealer, inasmuch as the bill requires that good faith be exercised on the part of the manufacturer. In that way, the bill would only be carrying out what the chairman of the subcommittee has already stated.

Mr. O'MAHONEY. Of course; and I reiterate that statement.

Mr. WATKINS. But if there is objection to the bill on that ground, it seems to me it would be good legislation to make the parties equally responsible, insofar as good faith is concerned.

As I recall, we did not get much opportunity to discuss the bill in the committee. Some of the questions which have been raised today in the course of the debate now in progress have caused me some concern in regard to the drafting of a piece of proposed legislation which may appear to be too one-sided, although in my own mind, I am certain that the dealers do require some protection. I think that, in many instances, the dealers have been the victims of very large companies which have been able to dictate practically any terms they wanted to make the dealers comply with if they wished to represent the companies in the selling of automobiles.

I think Congress ought not to deny equal rights to both sides in a controversy of this kind. I can see, from what has been said in respect to bootleggers, and so forth, that there might be some matters which would require a dealer as well as the manufacturer to act in good faith, and make obligatory upon the dealer compliance with the same kind of provisions we require the manufacturer to obey.

Mr. O'MAHONEY. There is no intention on the part of the committee to deny equal rights to both sides, and make good faith the responsibility of both. As I have said, I feel that the bill accomplishes that purpose. If any amendment were to be drafted, it would require, of course, very careful consideration—as careful consideration as was given to the bill. Therefore, I am hoping, as I said to the Senator from Ohio, that, inasmuch as I think the legislative record we are making with respect to the bill is clear, the actual presentation of such an amendment will await the hearing in the House.

Mr. WATKINS. It seems to me that if what has been indicated is our view there would be no harm in saying so in specific language.

Mr. O'MAHONEY. The specific language has not appeared. We want to get the bill passed.

Mr. WATKINS. It may appear later. I think we are under some obligation to see that that objective is accomplished.

Mr. BRICKER. Mr. President, will the Senator from Wyoming yield?

Mr. O'MAHONEY. I yield.

Mr. BRICKER. The Senator from Wyoming is a distinguished lawyer. He

is fully aware that there may be a constitutional question involved in the bill. In the first place, we give a certain property right to the holder of the franchise already in existence, in the nature of double damages, and the right to sue. There may not be an additional property right, because he already has the right to sue if there is not good faith on the part of the manufacturer. But there is no commensurate right given to the manufacturer to go into court because of the violation of the terms of the franchise. He may have rights at common law in connection with the enforcement of his contract. But does the Senator feel that there is any constitutional question raised in giving additional rights to the dealer which are not given to the manufacturer by giving him a day in court on the question of double damages? That is a property right.

Mr. O'MAHONEY. It had not occurred to me that there was any constitutional question involved. I believe that the double damages would act as a deterrent against the abuses which we found so innumerable.

We are dealing with a situation which was presented to two committees of this body in great detail. It was shown that the automobile dealer was, in fact and in practice, absolutely at the beck and call of the manufacturer. We had evidence that the contracts, or franchises, as we should call them—because they were not in fact contracts at all—placed the dealer under great pressure and denied him his economic freedom. That this was so has been demonstrated by the great modifications which have been made by the manufacturers since the hearings were held. I have known no case to compare with this one, except the case of the insurance business under the old TNEC investigation in the years before World War II began. In that case the mere exposition of the facts before a congressional hearing had a beneficial result similar to that produced by the recent hearings. But without the day-in-court bill there would be nothing to prevent the manufacturer from restoring, ipsi dixit, the conditions which previously existed.

Mr. BRICKER. Mr. President, will the Senator further yield?

Mr. O'MAHONEY. I yield.

Mr. BRICKER. I agree with the Senator that there have been cases of arbitrary action—perhaps unfair action—on the part of the companies in their dealings with their dealers. Also there have been cases of the raiding of dealers of one company by those of another company. Of course, those are inequities. They represent unfair treatment. But, after all, the manufacturer lives because his agents prosper. I think the record will show that a very small minority of the dealers are complaining about their relationships. I well remember a few years ago, as the Senator undoubtedly remembers, when all sorts of efforts were made by people to get into the automobile-dealer business. They wanted franchises. They did not ask for terms or anything else, because the business was very profitable.

Mr. O'MAHONEY. The record is full of abuses. The report of the General Motors Co. itself is an acknowledgment, by reason of the changes which have been made.

I hold in my hand not a statement of the committee but the statement of Mr. Harlowe Curtice, president of General Motors Co., on distribution policies and practices of his company. This was his statement before the Monroney committee, in which he pointed out what has been done.

I read from page 3 of the document, which is dated May 8 and 9, 1956:

> Last November, as you know, we appeared before another Senate subcommittee. The hearing generated a great deal of publicity pertaining to our dealer relations—and specifically to our selling agreement and factory-dealer relationships. The atmosphere was emotional, and charges were made which were not documented or, in our opinion, reasonably established. However, it appeared to me that where there was smoke there must be some fire. How serious the fire I was determined to find out.

With respect to his characterization of the hearings as emotional, I think I can testify to my colleague that there was no emotion upon the part of members of the subcommittee. We were only looking for the facts.

Continuing with Mr. Curtice's statement, he gives particulars with respect to the revised selling agreement, after a conference of the General Motors Dealer Council was held. Mr. Curtice continued:

> Some of the changes and additions to the selling agreement have to do with policy. Others are economic changes, and still others are general. All are to the benefit of the dealer and, we believe, to the ultimate benefit of the consumer.

Then there are some 17 changes listed. Let me read some of them:

> 10. We are increasing the allowance under the General Motors parts obsolescence plan from 2 percent to 4 percent of annual purchases. This will give greater assistance to the dealer in maintaining a parts inventory adequate for the increasing complexity of our cars and the steadily mounting number of them on the road.
>
> * * * * *
>
> 13. Return of purchased parts. The contract has made provision since 1938 for the return of purchased parts within 30 days. We are now increasing the period to 90 days.
>
> * * * * *
>
> 15. Ethical advertising. The revised selling agreement will contain a clause providing for maintenance of a high standard of ethics in advertising.

So it goes, in paragraph after paragraph, showing how the General Motors Corp., as a result of this exposition at a public Senate hearing of the complaints of the dealers, brought about corrections.

Mr. BRICKER. I do not deny that at all. I think much good has been accomplished by it, as was the case 3 years ago as a result of the hearing with respect to the situation in connection with phantom freights.

Mr. O'MAHONEY. My point is that unless we nail them down by legislation, the gains will speedily vanish.

Mr. BRICKER. My only thought is that we should not be unfair in the legislation we enact; that we should not treat one party unfairly. I have one more question to ask the Senator.

Mr. O'MAHONEY. I agree with the Senator; and I do not believe that this is unfair legislation.

Mr. BRICKER. As I understand, the Senator believes that the right of Congress to pass the proposed legislation attaches under the commerce clause of the Constitution. Is that correct?

Mr. O'MAHONEY. I believe the right so attaches.

Mr. BRICKER. Does the Senator believe that under the commerce clause the power goes to the sale of automobiles within a State, locally, to a domestic consumer?

Mr. O'MAHONEY. A great authority on the commerce clause, Chief Justice Marshall, in one of his very famous decisions, held that that was so. Chief Justice Marshall has been honored by many conservatives and by some liberals during the years which have elapsed since he was Chief Justice.

Mr. BRICKER. Sometimes I think he has been honored more by the Senator and myself than by the Supreme Court.

Mr. O'MAHONEY. I am glad to be in the Senator's company. In the famous case of Gibbons against Ogden, Chief Justice Marshall held specifically that the commerce power granted in the Constitution to Congress covers intrastate commerce if it affects interstate commerce.

Mr. BRICKER. If it affects interstate commerce. The question is whether this does.

Mr. O'MAHONEY. Under the conditions under which we have been living for the past 20 years, Congress has been passing laws which it would not have attempted to pass 30 or 40 years ago.

Mr. BRICKER. And the Supreme Court has sustained suits which 30 or 40 years ago it would not have sustained, because of the integration of commerce.

Mr. O'MAHONEY. That is correct.

Mr. BRICKER. How far does that power go, however?

Mr. O'MAHONEY. I believe the commerce clause covers all commerce which affects the welfare of the people of the United States in the several States.

Mr. BRICKER. There is no question that it covers the terms of a contract in interstate commerce, but whether it covers a sale to the ultimate consumer is the question I have in mind.

Mr. O'MAHONEY. The question is whether it affects commerce as a whole. I believe bootlegging, which falls under the question the Senator asked, is clearly within that power.

Mr. BRICKER. Of course, the pending bill would not prevent bootlegging.

Mr. O'MAHONEY. No; the other bill which was introduced would do that.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. O'MAHONEY. I yield.

Mr. AIKEN. Would the provisions of the pending bill apply to farm tractors? I notice the bill refers to "or other automotive vehicles." Are not tractors automotive vehicles?

Mr. O'MAHONEY. I read from the bill:

(a) The term "automobile manufacturer" shall mean any person, partnership, corporation, association, or other form of business enterprise engaged in the manufacturing or assembling of passenger cars, trucks, station wagons, or other automotive vehicles, including any person, partnership, or corporation which acts for such manufacturer or assembler in connection with the distribution of said automotive vehicles.

Mr. AIKEN. My question is, Is a tractor an automotive vehicle?

Mr. O'MAHONEY. I believe a tractor is an automotive vehicle.

Mr. AIKEN. Is a combine or a cotton picker an automotive vehicle?

Mr. O'MAHONEY. If it is driven by automotive power; yes.

Mr. AIKEN. Would a power lawn mower be an automotive vehicle?

Mr. O'MAHONEY. No, I do not think so.

Mr. AIKEN. Why not?

Mr. O'MAHONEY. Because it is not a vehicle.

Mr. AIKEN. Why not? I have seen people riding power lawn mowers. Why is it not an automotive vehicle?

Mr. O'MAHONEY. Because it is not designed for the purposes we had in mind in drawing the bill.

Mr. AIKEN. Is not an automotive vehicle a vehicle propelled by power on which one may ride?

Mr. O'MAHONEY. A vehicle, as conceived by the committee, is a vehicle used for the purpose of transportation.

Mr. AIKEN. I have seen people ride from place to place on a power lawn mower.

Mr. O'MAHONEY. Oh, I know; but a power lawn mower is not used primarily for that purpose.

Mr. AIKEN. No, not primarily. Primarily it is used for cutting grass, and it is incidentally used for riding.

Mr. O'MAHONEY. The primary purpose of the automotive vehicles which is dealt with in the proposed legislation is transportation.

Mr. AIKEN. The bill would cover motorcycles, would it not?

Mr. O'MAHONEY. Yes; I believe it would cover motorcycles.

Mr. AIKEN. I have no further questions. I wanted to know where an automotive vehicle leaves off and something else begins. I was wondering why a farm-equipment dealer should not be protected. It seems to me that farm machinery dealers need protection also. Many of them also sell automobiles.

Mr. O'MAHONEY. We dealt solely with the question of vehicles used for transportation, and with a particular kind of business. We did not feel it would be wise to enter into the field of all the items which are manufactured and distributed throughout the country.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. O'MAHONEY. I yield.

Mr. HOLLAND. I should like to ask a question of the distinguished Senator from Wyoming. In quickly reading the bill and in quickly inspecting the report of the committee I have been unable to find any clear statement as to whether the proposed legislation, if enacted, would apply to dealer contracts in existence at the time of the passage of the bill. It would seem to me that either the bill or the report should clearly show that fact. I have failed to find it. I therefore ask the distinguished Senator from Wyoming what his judgment is in that regard.

Mr. O'MAHONEY. My judgment is that it does apply. Section 3 reads:

SEC. 3. An automobile dealer may bring suit against any automobile manufacturer engaged in commerce, in any district court of the United States in the district in which said manufacturer resides, or is found, or has an agent, without respect to the amount in controversy, and shall recover twofold the damages by him sustained and the cost of suit, including a reasonable attorney's fee, by reason of the failure of said automobile manufacturer to act in good faith in performing or complying with any of the terms or provisions of the franchise, or in terminating, canceling, or not renewing the franchise with said dealer.

Mr. HOLLAND. I thank the distinguished Senator. I note, however, that section 2 reads as follows:

SEC. 2. Any automobile manufacturer engaged in commerce who makes or grants any franchise to an automobile dealer, shall have the duty to act in good faith in all dealings or transactions with such dealer.

That does not say who shall make or who shall grant in the future, but neither does it say who has made or who has granted heretofore. I should think that the sounder interpretation of the present tense, as used in section 2, would require the legislation, if it were not required by other provisions of law, to apply only to contract dealerships made after the date of the enactment of the legislation. I ask the distinguished Senator to reread section 2 and then give me the benefit of his thinking on it.

Mr. O'MAHONEY. I note the emphasis which the Senator from Florida places upon the use of the present tense. However, I believe it is common practice in law to use the present tense to cover incidents which may happen at any time.

Any automobile manufacturer engaged in commerce—

I am reading section 2—

who makes or grants any franchise to an automobile dealer—

I believe that language is just as effective, in covering a franchise now existing, as though the language said "who has made."

I have been looking over the last clause of the section. Section 2 is the whole sentence, and the last clause of it imposes a duty upon the automobile manufacturer. What is that duty? He shall have the duty to act in good faith in all dealings or transactions with the dealers. That applies to future acts of the manufacturer after the enactment of the bill, and I think it applies under any franchise which may exist.

Mr. HOLLAND. I thank the distinguished Senator. Would the language, as the Senator has just interpreted it, vary or alter the provisions of existing contracts or affect existing property rights?

Mr. O'MAHONEY. I should say that existing contracts are so clearly being altered now that that question is more academic than actual. I have on my desk, as I indicated a moment ago, the testimony of the president of the General Motors Corp. with respect to changes. During the hearings at which the president of the General Motors Corp. appeared he announced from the hearing room an immediate change when he said to the committee that he had just sent a telegram to all General Motors dealers saying that the franchises no longer would be for 1 year only, but for 5 years.

Mr. HOLLAND. Mr. President, I appreciate that information. That, however, amounted to a renewal beyond the period of the then existing contract, and, of course, the right of renewal had always existed and such effect would not operate to take away or change any right existing under the contract.

My anxiety at this point concerns the question of whether the bill, if enacted, will so operate as to existing contracts as to alter or vary their provisions or hurtfully affect existing rights.

Mr. O'MAHONEY. No; I do not think it alters the provisions of the contracts at all, but it imposes upon the manufacturer the duty to act in good faith in conforming with or complying with any of the terms or provisions of the contract.

Mr. HOLLAND. I thank the Senator.

Mr. CURTIS. Mr. President, will the Senator from Wyoming yield?

Mr. O'MAHONEY. I yield.

Mr. CURTIS. The distinguished Senator has been very kind in yielding. I want nothing but a fair deal for automobile dealers.

Mr. O'MAHONEY. I am sure that is the position of the Senator.

Mr. CURTIS. I should like to ask this question: How long a time after a cause of action accrued would an automobile dealer have to bring suit against the manufacturer?

Mr. O'MAHONEY. Of course, there is no specific term mentioned in the bill. It was assumed by the committee that the existing statute of limitations, whatever it was, would apply.

Mr. CURTIS. Which statute of limitations?

Mr. O'MAHONEY. The statute effective in the area involved.

Mr. CURTIS. The State statute?

Mr. O'MAHONEY. Whatever statute is in effect in the jurisdiction of the court in which the case is brought.

Mr. CURTIS. In that connection, would there be the right to sue for an act heretofore committed by the manufacturer?

Mr. O'MAHONEY. No, I think not. The bill applies to future acts.

Mr. CURTIS. Will the Senator point out the language which restricts it to future acts?

Mr. O'MAHONEY. Section 3 is the section which makes it clear. There is no retroactive language in this bill making it applicable to acts of bad faith which occured in the past. To do that, it would be necessary to write retroactive language.

I wish the Senator to know that in sponsoring this bill, I have done so in the belief that we can promote good rela-

tions between the manufacturers and the dealers, and that it is not necessary to look into the past for violations.

I have repeatedly said, and I should like to reiterate it now, that I personally would be ready to forgive every violation of the antitrust laws which has been committed up to this time, if by so doing we could rewrite the sort of legislation which would establish proper dealings under the antitrust laws.

Mr. CURTIS. I, certainly, hold no particular or special brief for manufacturers. They are usually able to take care of themselves. But I am anxious that the language we use will accomplish what we hope it will accomplish. I was delighted to hear the distinguished Senator say that he had an agreement with the chairman of the Judiciary Committee of the House that public hearings would be held, because I would not want to grant rights to a dealer in respect to acts which were not in the public interest and in the interest of other dealers.

Mr. O'MAHONEY. I have been on my feet much longer than I had anticipated. The time has come for the legislative body of the United States and for the executive branch to come to an understanding of what can be done to preserve small business from being absorbed by concentrated big business, which, under present conditions, operates according to its own will. I do not blame it at all, because Congress is responsible for not having legislated effectively to meet the situation in which we find ourselves.

When the Sherman Antitrust Law was passed in 1890, no one in the Senate or in the House had any conception, at least, any which was expressed in the discussion of the bill, that the time would come when most of the business in interstate commerce would be conducted by a comparatively few corporations chartered by the States, with blanket power to create subsidiary corporations to operate in various ways.

Mr. JOHNSTON of South Carolina. Mr. President, will the Senator yield?

Mr. O'MAHONEY. I am glad to yield to the Senator from South Carolina.

Mr. JOHNSTON of South Carolina. I thank the Senator from Wyoming for yielding. Before I submit a favorable report from the Committee on Post Office and Civil Service on the nominations of 149 postmasters, I desire to say that the Senator from Wyoming has done outstanding work in preparing the pending proposed legislation. It is something which is needed very badly in my State. I hear complaints about the situation every day from the automobile dealers. I believe that if the bill now under consideration shall be passed, it will do a great deal of good.

Mr. O'MAHONEY. I thank the distinguished Senator from South Carolina.

Mr. President, I was about to say, in conclusion, that the Department of Justice, realizing the nature of the problem at the beginning of this administration, appointed a special group of lawyers, economists, and professors to study the antitrust laws. The United States Senate and House of Representatives undertook to review that report.

No recommendations were made in the report submitted by the Attorney General's Committee, but the Antitrust Division of the Department of Justice has brought many suits to enforce the antitrust laws. I have only praise and admiration for Judge Barnes, the recent head of the Antitrust Division. Nevertheless, it is perfectly clear that the problem has not been solved, when one remembers that in the numerous consent decrees which have been obtained we have fallen into the practice of securing consent between the Department of Justice and the defendant as to the nature of the complaint to be made against him before negotiation and agreement are made on the nature of the decree which should be signed.

The bill is not an attempt to solve the whole problem. It is merely an attempt to make it clear that one small thing can be done for the automobile dealers of America, namely, to give them the right to go into court and to enforce good faith between themselves and the manufacturers.

Mr. LANGER. Mr. President, will the Senator yield?

Mr. O'MAHONEY. I yield.

Mr. LANGER. Is it not true that the testimony showed that some of the corporations were, in a manner of speaking, larger than the United States Government itself? They could borrow money more cheaply than could the United States Government. That is a perfectly indefensible situation, in the opinion of the Senator from North Dakota. The automobile-manufacturing corporations are so strong and so powerful that they can borrow money more cheaply than can our own Government.

Mr. O'MAHONEY. If the situation which now exists continues to grow—if the concentration of power proceeds further—we may confidently look forward to a time when it will be unnecessary to have any Senators in this Chamber, because the power to regulate commerce will be in the hands of those giant agencies, and not in the hands of Congress.

The large corporations complain about Federal regulation. Yet the record of the hearings on the bill shows that some of the automobile companies want for themselves the right to regulate the automobile dealer. That is a situation which the Government cannot tolerate. If we fail now to give the automobile dealer his day in court, we shall be sacrificing, in my opinion, the day in court of thousands, yes, of tens of thousands, of small-business people throughout the United States.

Congress must keep the door of opportunity open to all. We must not allow to continue a situation in which great accumulations of capital, counted in the billions of dollars, and operating not only on a nationwide basis, but also upon a worldwide basis, are able to overawe the small businessmen and businesswomen whom we represent in our own States.

I hope, Mr. President, that when the debate upon the bill has been finished, we may have a yea-and-nay vote. I ask for the yeas and nays upon the passage of the bill.

The yeas and nays were not ordered.

Mr. O'MAHONEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. O'MAHONEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. Obviously, a large number of Senators has arrived.

The PRESIDING OFFICER (Mr. SCOTT in the chair). Without objection, it is so ordered.

Mr. O'MAHONEY. Mr. President, I ask for the yeas and nays when the Senate comes to vote on the passage of the bill.

Mr. KNOWLAND. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KNOWLAND. If the yeas and nays are ordered at this time on the bill itself, and I certainly have no objection to that, does that foreclose the ordering of the yeas and nays on a motion to recommit, should such a motion be made?

The PRESIDING OFFICER. It would not foreclose the ordering of the yeas and nays on a motion to recommit.

The question is, Shall the yeas and nays be ordered on the passage of the bill?

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. POTTER. Mr. President, I move to recommit the bill. Before I speak on the motion to recommit, I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. BRICKER. Mr. President, will the Senator from Michigan yield?

Mr. POTTER. I yield.

Mr. BRICKER. I should like to place in the RECORD the determination of the court in the case of Gibbons against Ogden. I wish to suggest to the Senator from Wyoming that I was not entirely familiar with the decision when he called it to my attention. It has been several years since I read the decision. The report of the case consists of about 239 pages. I think the law is largely stated in the syllabus of the case. The case involved a situation wherein the State of New York required all vessels which were sailing on the Hudson River at the port of New York and adjacent waters to be licensed by the State of New York. That case came before the Supreme Court on behalf of one who was licensed by the State of New Jersey and who wished to traverse the water. Forfeiture of the vessel was provided for in the New York statutes.

The syllabus of the case states:

The acts of the Legislature of the State of New York, granting to Robert R. Livingston and Robert Fulton, the exclusive navigation of all the waters within the jurisdiction of that State, with boats moved by fire or steam, for a term of years, are repugnant to that clause to the Constitution of the United States, which authorizes Congress to regulate commerce, so far as the said acts prohibits vessels, licensed, according to the laws of the United States, for carrying on the coasting trade, from navigating the said waters by means of fire or steam.

So, that case dealt directly with transportation over navigable waters within the State of New York, and did not apply to any sales in commerce within the State of New York.

As I say, I have not read all the 239 pages of the reported case, but I think the case had to do exclusively with the moving of vessels over the waters of the State of New York, and the case held that vessels which were chartered either by the United States or by another State could not be excluded from moving over those waters.

Mr. O'MAHONEY. I have not read the case for a long time, either, but my recollection is that the ferryboat involved was operating across the Hudson River between the State of New York and the State of New Jersey.

Mr. BRICKER. That is correct.

Mr. O'MAHONEY. And that it was transportation in interstate commerce.

Mr. BRICKER. It was a clear case of that.

Mr. O'MAHONEY. A clear case. Here we have a similarly clear case, because there are involved operations under a franchise given for the transportation and sale of automobiles from one State to another. I drew the conclusion, from many decisions which have been rendered, and from many acts of Congress which have been enacted in the past 20 years, that the statement of Chief Justice Marshall in that case involving the power of Congress over interstate commerce, in passing the Navigation Act, is such that it applies to all commerce which affects commerce among the States.

Mr. BRICKER. The case of Gibbons against Ogden does not go that far.

Mr. O'MAHONEY. Then I am thinking of the wrong citation.

Mr. BRICKER. My question was whether or not the power of the Congress, under the interstate and foreign commerce clause, attaches to the sale of a product to the trade after delivery, under the franchise of the dealer. I was getting at the problem of bootleg sales, to which the industry or dealers objected 2 or 3 years ago. That was the reason for the question. The case I have cited does not apply to that situation. I do not know yet whether we have the power to regulate the sale after the delivery.

Mr. O'MAHONEY. I still think we do have that power.

Mr. BRICKER. I thank the Senator from Michigan for yielding to me.

Mr. POTTER. Mr. President, irrespective of the merits of the bill, the motion to recommit, is made because the Senate is being asked to act upon a bill which will have far-reaching effect. The bill seems tame on the surface. I believe the purpose of the bill is described as giving the dealer a fair day in the court, an objective which we certainly all support.

I wish to point out that no hearings were held directly on this bill. It is true that the Senator from Wyoming [Mr. O'MAHONEY] conducted extensive hearings, involving the major automobile companies and dealers, upon the question of antitrust law violations, monopolistic trends and influences, and, to a certain degree, management-dealer relationships. The Senator from Wyoming, during the course of those hearings, frequently suggested that they were exploratory; that there was no legislation before the committee; that the hearings were an effort to lead the manufacturers and the dealers into a relationship of greater harmony.

After hearings were concluded, the subcommittee drafted the pending bill, which was subsequently reported to the Senate. Mind you, Mr. President, representatives of the industry have not testified on the proposed legislation. Dealers have not testified on the proposed legislation. Representatives of the various departments of Government have not testified on the bill presently before the Senate. Nor have consumer or labor groups testified.

I have in my hand a report from the Department of Justice, which was submitted about 2 or 3 days ago, raising some very serious objections to the bill.

In all fairness to the Members of the Senate, it must be remembered that in the debate which has taken place so far many questions have been raised as to whether the bill requires good faith to be observed by both parties to a contract, and, as I recall, the distinguished Senator from Wyoming has conceded that there is considerable doubt on that score. The senior Senator from Florida [Mr. HOLLAND] raised a question as to the effect upon present franchises.

We know the folly of endeavoring to write on the floor of the Senate even the simplest piece of legislation. Regardless of what an individual Senator may believe as to whether Federal legislation is needed in order to enforce contracts between manufacturers and dealers in the automobile industry, certainly no Senator will say that the Senate should pass a bill on the expectation that the other body will do a better job, that the other body will hold hearings, or that the other body will correct mistakes which the Senate may make.

Mr. President, this body has a clear responsibility to recommit the bill, so that the Senate committee may hold hearings at which an opportunity will be afforded all interested parties, including representatives of the Department of Justice, representatives of the Federal Trade Commission, representatives of the manufacturing industry, representatives of the dealers and consumers, to testify regarding the provisions of the bill. They should be given their day in court.

Mr. President, I say frankly that if I were an automobile dealer, I would be scared stiff of the bill which now is before the Senate. What does the bill do? In the bill the manufacturer is charged with the duty of protecting the equities of each individual dealer. That does not mean only the legitimate dealer; it means both the franchised dealer and the dealer who sells to bootleggers; it means also the "stimulator" dealer. Such a provision would compel the manufacturer to protect the equities of the very forces which 90 percent of the automobile dealers have condemned.

So, Mr. President, although we may be greatly concerned about the relationships between the manufacturers and the dealers—and I shall be the first to admit that auto manufacturers have sometimes dealt with a very heavy hand—yet it frequently happens that when we endeavor by legislation to solve certain problems, particularly those relating to two parties to a contract, we use a broad and double-edged sword that cuts both ways.

Now we face the question of equities. If a manufacturer can be sued by a dealer for double damages because of a breach of good faith, what is the position of the consumer? Why not extend that right to the limit, and allow a customer to sue a dealer for breach of good faith? Dealers have been known to advertise falsely and to advertise a certain trade-in which, at the time when the deal was consummated, did not materialize.

So, Mr. President, when we deal with the question of good faith, and when we include in the bill a punitive provision for double damages, our great concern should be not necessarily for the manufacturer or for the dealer, but for the public. This bill provides protection for the public. If we are honest about the matter, we should provide in the bill a requirement that all consumers shall be dealt with in good faith.

Mr. President, there are many reasons why the bill should not be passed today.

First, the bill imposes upon the manufacturers of automobile vehicles duties and burdens which are not imposed upon other manufacturers whose products are sold to dealers and compete with automobiles for the consumers' dollar. No justification for giving such treatment to automobile manufacturers, while protecting the manufacturers of other commodities from similar treatment, has been offered. In other words, the bill applies to manufacturers of only one commodity, and discriminates against one industry. Mr. President, what about the manufacturers of farm equipment? What about the manufacturers of refrigerators? What about the manufacturers of television sets and automobile tires? They also operate through dealers.

Historically, the Congress has always endeavored to avoid discriminatory legislation. It has never undertaken to say, "We shall treat this one industry differently from all other industries."

Mr. President, if the proposed protection is needed, let us apply it to all industries in which there are manufacturers and franchised dealers; let us not select only one industry, and hold it up as a bad example.

Of course, as has been stated, no hearings were held on the pending bill; there was no opportunity for representatives of the Department of Justice, the Federal Trade Commission, the automobile dealers, and the automobile manufacturers or the consumer to appear before the committee, testify on the bill, and test its language.

As the debate on the bill has progressed today it has been demonstrated that there is great vagueness as to what the bill will do.

Mr. BRICKER. Mr. President, will the Senator from Michigan yield to me?

The PRESIDING OFFICER (Mr. WOFFORD in the chair). Does the Senator from Michigan yield to the Senator from Ohio?

Mr. POTTER. I yield.

Mr. BRICKER. Does the Senator from Michigan interpret the bill as applying to franchises already in existence?

Mr. POTTER. That is a question which has not been decided. The distinguished Senator from Florida [Mr. HOLLAND] raised that question. The author of the bill, the distinguished Senator from Wyoming [Mr. O'MAHONEY], stated, I believe, that the bill would affect present contracts. But that is an area which is still in doubt.

Mr. BRICKER. Of course, if it be true that the bill will apply to franchises already in existence, the bill will clearly be unconstitutional, I think, because the Constitution of the United States prohibits the enactment of an ex post facto law; and this bill would then affect the substantive rights—not the remedial procedure, but the substantive rights—of every automobile dealer in the country who today has a franchise. In other words, the bill would amend his franchise. If that be true, and if the bill gives the automobile dealers that right, the bill would take property from someone else; in this case it might be a contract right in the nature of a property right.

Mr. POTTER. The Senator from Ohio is absolutely correct.

Mr. BRICKER. In other words, two very definite constitutional questions are raised by the bill; and before it is enacted, those questions should be resolved.

Mr. POTTER. In the report by the Department of Justice, reference is made to the fact that there is a constitutional question:

> Finally, this language may raise constitutional problems. The bill in no way limits the time from which damages may run. Thus, for example, dealer-manufacturer contracts presently in force might be held not to protect all the equities of the automobile dealer. Even though the manufacturer complied strictly with the present contract terms, he still could be sued by a dealer the day this bill becomes law, and subjected to punitive damages for past acts not illegal when committed.

Mr. BRICKER. The record shows that it is the intention of the proponents of the bill that it apply to present contracts.

Mr. POTTER. That is my understanding.

Mr. O'MAHONEY Mr. President, will the Senator yield?

Mr. POTTER. I yield.

Mr. O'MAHONEY. The Senator from Ohio has misunderstood the answer which I gave; and I think the Senator from Michigan has also misunderstood it.

Mr. POTTER. I shall be glad to be corrected.

Mr. O'MAHONEY. The bill does not apply to any acts which have happened in the past. There could be no such retroactive legislation. We agree to that. The bill deals solely with acts which are committed after the enactment of the bill, with respect to lack of good faith.

Let me say also that the pledges which have already been made by the big manufacturers with respect to the rewriting of the franchises are so clear that the situation which has existed will be utterly different from that which will exist at the time the bill is enacted. Let me state it in another way. The franchises under which the abuses are committed are rapidly going out of existence.

Mr. BRICKER. That is gratifying. Will the Senator from Michigan yield in order that I may ask the Senator from Wyoming one further question to clear up the record?

Mr. POTTER. I yield to the Senator from Ohio.

Mr. BRICKER. Does the double damages feature apply to contracts which are already in existence?

Mr. O'MAHONEY. It applies only to acts which take place in the future, after the bill is enacted.

Mr. BRICKER. But under those contracts?

Mr. O'MAHONEY. In connection with the termination of an existing contract; yes.

Mr. ALLOTT. Mr. President, will the Senator from Michigan yield to me in order that I may propound a question to the Senator from Wyoming?

Mr. POTTER. I yield for that purpose.

Mr. O'MAHONEY. I dislike to interrupt the Senator from Michigan.

Mr. ALLOTT. My question is along the lines of the discussion which has already taken place.

Mr. O'MAHONEY. I am perfectly willing to answer the question, but I wish to be courteous to the Senator from Michigan.

Mr. POTTER. The Senator from Wyoming is always courteous.

Mr. ALLOTT. The Senator from Michigan is always polite, so it is all right.

The second paragraph of the report of the committee reads in part as follows:

> This legislation has several purposes. It creates causes of action where none previously existed.

Based upon the answer of the Senator from Wyoming, the effect of this proposed legislation, in the creation of causes of action where none previously existed, would be to rewrite the terms of all existing franchises.

Mr. O'MAHONEY. No. The old franchises, against which the complaints were made, were terminable at will. So the bill, in authorizing a suit upon termination where good faith has not been exercised, would create a new cause of action. The record was full of cases in which the franchises had been terminated absolutely in the most arbitrary manner possible.

Mr. ALLOTT. If the Senator from Michigan will further yield, I feel that this point ought to be cleared up.

Mr. POTTER. I yield.

Mr. ALLOTT. The report continues:

> This right to court review will exist irrespective of current franchise provisions to the contrary.

Each of us knows of many abuses which have existed in the past.

But with respect to the answer of the Senator from Wyoming to my inquiry, it seems to me that if the bill does actually create a right, and it applies to existing contracts, in effect it would abrogate the provisions of those contracts and deprive people of property without due process of law. In fact, it would deprive them of the right which they had to contract freely, which right theretofore existed.

I am not unaware of the problems which have existed in this field, but I feel that the question which has been raised must be resolved before the proposed legislation can become effective or good.

Mr. O'MAHONEY. Let me say to the Senator from Colorado that the franchises which we have been discussing are not franchises which are at the present time enforceable; and the courts have said so over and over again. The only thing we are doing in this bill with respect to any of the old franchises, which the companies will not have abolished voluntarily by the time the bill passes, is to outlaw the provision by which the companies have the right to terminate franchises without cause.

Mr. ALLOTT. I invite the Senator's attention to the fact that the bill does not say that the franchise must be terminated before the dealer can sue. There is no such provision in the bill. So a dealer might have a franchise with respect to which he contended good faith had not been shown, and he might sue. The bill would incorporate in the franchise a term, a condition, and a right, as the report of the committee says, which did not previously exist. If that be true, as the Senator from Ohio [Mr. BRICKER] has very well pointed out, I think the bill is probably unconstitutional.

Mr. O'MAHONEY. Again I read the concluding language of section 3, which contains the gist of the bill. This is the purpose for which the automobile dealer may sue. I begin in line 15 on page 3:

> By reason of the failure of said automobile manufacturer to act in good faith in performing or complying with any of the terms or provisions of the franchise, or in terminating, canceling, or not renewing the franchise with said dealer.

These are the specific fields in which the hearings clearly showed the abuses, the coercion, and the violation of dealers' rights to have taken place. Let me say to the Senator from Colorado that we are dealing with a situation which was so clearly abusive that the manufacturers have already changed their attitude. The result of the bill will be to nail down, as it were, the gains which have now been made. If the bill is not passed, if we do not give the dealer his day in court, all those abuses can be restored immediately. That is the gist of the bill.

Mr. ALLOTT. Mr. President, may I impose once more upon the good Senator from Michigan?

Mr. POTTER. I yield.

Mr. ALLOTT. I am not unaware of the situation to which the Senator from Wyoming refers. I speak with a background of some years of actual knowledge. But he has answered my question by referring to the last few lines of the

bill. The bill does exactly what I previously stated, when it says:

By reason of the failure of said automobile manufacturer to act in good faith in performing or complying with any of the terms or provisions of the franchise, or in terminating, canceling, or not renewing the franchise with said dealer.

In the first part, in stating it in the alternative, what we have done is actually to incorporate a new right in the original contracts. I hope to make my position clear later, but I wish to say now that, insofar as the bill attempts to write into existing franchises new rights—not merely remedial, but substantive in character—I am inclined to agree with the Senator from Ohio [Mr. BRICKER] that it may be unconstitutional. I wish to express my appreciation to the Senator from Michigan for having yielded to me and also to the Senator from Wyoming for answering my questions.

Mr. POTTER. Mr. President, the colloquy which has taken place emphasizes the very serious questions raised by the bill, which, on its face—and I know this is the intention of the distinguished Senator from Wyoming—would give a day in court to automobile dealers. However, the plain language of the bill hides some provisions which, I am sure, will return to haunt the very dealers the distinguished Senator seeks to aid.

Before I yield to the distinguished Senator from Colorado, I wish to complete my citation of the objections raised to the pending bill. I said, first of all, that it was discriminatory. It provides for punitive action against one part of an industry, and not another part; against one industry, and not against another where the same type of manufacturer-dealer relationship exists.

Secondly, Mr. President, the bill comes before us without hearings having been held on the specific piece of legislation now being considered by the Senate.

The third objection I have to the bill is that it imposes fiduciary duties upon automobile manufacturers with respect to their dealers, without corresponding obligations being imposed on the dealers toward manufacturers or toward the public. There is no justification for legislation which requires manufacturers to act in good faith toward dealers but which does not impose the same obligation upon dealers with respect to manufacturers and the public.

I am not a lawyer, but it is my understanding that the legal interpretation of the term "fiduciary duties" implies a trust. A manufacturer, according to my interpretation of the bill, would be obligated to protect the equities of every individual dealer. What would the equities be as between dealer A and dealer B in one community? For example, in Washington there may be Buick dealer A. What are his equities as compared with those of Buick dealer B at Hyattsville? Perhaps the dealer at Hyattsville is a bootlegger, who has been selling his cars wholesale to be taken to Utah or Colorado or some other locality, and there sold at a $50 profit on each car. Under this bill, dealer A, the legitimate, nonbootleg dealer, could not protect himself against dealer B.

As a matter of fact, the manufacturer, under the terms of the bill, would be required to protect the equities of dealer B, who sells cars in bootleg channels.

Therefore, we would freeze into law every stimulator dealer ever created. Instead of alleviating the evils which have cropped up in the management-dealer-customer relationship in the past years, we would legalize every one of them. We would force companies to protect the equities of bootleg operators under penalty of double damages. The very people the bill seeks to aid would be penalized if the bill were enacted into law.

Of course, the vast majority of the people in the country are not manufacturers. Only a few are automobile manufacturers. There are many automobile dealers. And the automobile consumers or buyers outnumber all the rest.

As a public servant coming from the State of Michigan, I assure the Senators that I am very much interested in automobile consumers. I want more of them. The interest of the consumer is completely ignored in the pending bill. This bill assumes that the interests of the public are the same as the interests of the automobile dealers. There are no grounds for such an assumption. Economic facts and experience contradict it. If the premise of the bill were sound, the public would be entitled to recover double damages from dealers in cases of bad faith by the latter.

Mr. President, as a matter of startling fact, manufacturers would be punished under the bill for the very act of protecting the public. Manufacturers would be subject to double damages for taking steps to protect the consumer against bad-faith actions of their dealers, if such cases were construed to follow section 1 (e) of the bill, the protection of the dealer-equity clause.

Mr. President, reference has been made to the report of the Department of Justice. This report points out many of the serious questions which are raised by the proposed legislation.

I wish to read from the report of the Department of Justice, signed by William P. Rogers, Deputy Attorney General. It is dated June 13, 1956. I shall not read the entire report, but I shall submit it for the RECORD later. In part, the report states:

This bill is special legislation limited solely to the distribution of automobiles. This Department has previously objected to the enactment of legislation limited to single industries. As a general rule we continue to oppose special legislation applying to any one industry.

Beyond that, comment on the bill's extremely broad wording is complicated by the absence of that public discussion and analysis which hearings would likely evoke. Principal questions stem from the construction of section 1 (e)'s definition of "good faith."

Initially, the manufacturer is obliged, under pain of double damages, to "guarantee the dealer freedom from coercion, intimidation, or threats of coercion or intimidation." While we are opposed to the coercion of any dealers including automobile dealers, to accept products for resale, this practice may be at present an unfair method of competition under the Federal Trade Commission Act. By making specific in section 1 (e) by definition of "good faith," the illegality of such a practice only by automobile manufacturers described in section 2, the bill, if enacted, might cause courts to question the illegality of the practice in other industries. Subject to this word of caution, I would not oppose the enactment of a bill to outlaw coercion.

In other words, Mr. President, we select one industry and say that if it indulges in coercion or intimidation or threats of coercion or intimidation, it is subject to double penalty. What about other industries in which there is a manufacturer-dealer relationship? The courts might infer that there would be a question as to the legality of such action.

Quoting further from the report of the Deputy Attorney General:

S. 3879 does more. The manufacturer is made liable for "coercion, intimidation, or threats of" same, not only by himself, but also, for instance, by his distributors—whether or not they are subject to his control. Thus, section 1 (a) defines "manufacturer" to include "any person, partnership, or corporation which acts for such manufacturer or assembler in connection with the distribution of said automotive vehicles."

Section 1 (e), in addition, defines "good faith" broadly to include the manufacturer's duty * * * to guarantee the dealer freedom from coercion," etc. The source from which this "coercion" may come, I emphasize, is no way limited by the bill. Apparently, then, this language obliges the manufacturer, on pain of double damages, to protect his dealer from any "coercion"—regardless of the source.

The bill, Mr. President, presents an interesting situation in connection with the definition of "manufacturer" and "distributor." A distributor is one who acts on the part of the manufacturer, and his actions in his relationship with the dealer can cause the dealer to sue for double damages; but the distributor also has franchises, so he is put in the position of the dealer. In the definition of "dealer" a distributor is also included. Is a dealer in automobiles who owns a franchise fish or fowl? Is he a manufacturer, or is he a dealer? That is another question which this bill raises. The bill would operate in a cloudy area and would be bound to bring on litigation for years. I contend, Mr. President, that the bill would work to the detriment of the very persons whom it seeks to aid.

Mr. President, I have cited only a few of the paragraphs from the Attorney General's report. I ask unanimous consent that the entire report be made a part of the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT BY DEPARTMENT OF JUSTICE ON S. 3879

DEPARTMENT OF JUSTICE,
June 13, 1956.

HON. JOSEPH C. O'MAHONEY,
Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary, United States Senate, Washington, D. C.

DEAR SENATOR O'MAHONEY: This is in response to your request for this Department's views on S. 3879 (84th Cong., 2d sess.). That bill was introduced May 18, 1956, referred to the Senate Judiciary Commtitee, and reported out favorably, without hearings, June 4 of this year.

Section 2 of the bill specifies that "any automobile manufacturer engaged in commerce who makes or grants any franchise to an automobile dealer shall have the duty to act in good faith in all dealings or transactions with such dealer."

Supplementing section 2, section 3 provides "an automobile dealer" may sue any manufacturer for double damages, plus cost of suit and attorney's fees, "sustained * * * by reason of the failure of said automobile manufacturer to act in good faith in performing or complying with any of the terms or provisions of the franchise, or in terminating, canceling, or not renewing the franchise with said dealer."

Finally, section 1 (e) defines "good faith" as:

"The duty of the automobile manufacturer, its officers, employees, or agents to act in a fair, equitable, and nonarbitrary manner so as to guarantee the dealer freedom from coercion, intimidation, or threats of coercion or intimidation, and in order to preserve and protect all the equities of the automobile dealer which are inherent in the nature of the relationship between the automobile dealer and automobile manufacturer."

This bill is special legislation limited solely to the distribution of automobiles. This Department has previously objected to the enactment of legislation limited to single industries. As a general rule we continue to oppose special legislation applying to any one industry.

Beyond that, comment on the bill's extremely broad wording is complicated by the absence of that public discussion and analysis which hearings would likely evoke. Principal questions stem from the construction of section 1 (e)'s definition of "good faith."

Initially, the manufacturer is obliged, upon pain of double damages, to "guarantee the dealer freedom from coercion, intimidation, or threats of coercion or intimidation." While we are opposed to the coercion of any dealers, including automobile dealers, to accept products for resale, this practice may be at present an unfair method of competition under the Federal Trade Commission Act. By making specific in section 1 (e) by definition of "good faith" the illegality of such a practice only by automobile manufacturers described in section 2, the bill, if enacted, might cause courts to question the illegality of the practice in other industries. Subject to this word of caution, I would not oppose the enactment of a bill to outlaw coercion. (See, e. g., *International Salt Co.* v. *United States* (332 U. S. 392 (1947)); *Standard Oil of California* v. *United States* (337 U. S. 293 (1949).)

S. 3879 does more. The manufacturer is made liable for "coercion, intimidation, or threats of" same, not only by himself but also, for instance, by his distributors, whether or not they are subject to his control. Thus, bill section 1 (a) defines "manufacturer" to include "any person, partnership, or corporation which acts for such manufacturer or assembler in connection with the distribution of said automotive vehicles." Section 1 (e), in addition, defines "good faith" broadly to include the manufacturer's "duty * * * to guarantee the dealer freedom from coercion," etc. The source from which this "coercion" may come, I emphasize, is no way limited by the bill. Apparently, then, this language obliges the manufacturer, on pain of double damages, to protect his dealer from any "coercion," regardless of the source.

Also specified by section 1 (e) as part of the manufacturer's "good faith" obligation is the duty to "protect all the equities of the automobile dealer" which are inherent within the nature of the relationship between the automobile dealer and the automobile manufacturer. Antitrust difficulties here, too, are immediately apparent. In light of auto-industry history, for example, the term "equities of the dealer" might well include the dealer's right to be free from competition from added franchise dealers. As I understand it, one major auto manufacturer's policy now is to permit appeal to its dealer relations board from any sales manager's decisions which affect "the equities of the dealer." Within this language, appointment of an additional dealer in a dealer's area has consistently been deemed a matter warranting appeal. Appointment of added dealers in an area, however, is but one normal competitive means for securing better distribution. As a result, this language might deprive newcomers of their fair chance to enter the auto-dealer business and in the process seriously restrain distribution of new cars.

Even more broadly, this phrasing could be read to require a manufacturer to guarantee against a dealer's unprofitable operation or depletion of investment. The report, for example, emphasizes throughout this bill's concern for the dealer's franchise investment.[1] After remarking on the "substantial investment of his own personal funds by the dealer in the business," the report, on page 2, states the dealer "becomes in a real sense the economic captive of the manufacturer." Building on this analysis, the report concludes (p. 5):

"The economic facts underlying the relationship between manufacturer and dealer justify the imposition upon the factory of duties of a fiduciary or quasi-judiciary character. * * * Under these circumstances, it seems reasonable that the law should impost upon the dominant party, the manufacturer, duties of a fiduciary character."

Against this background, it seems reasonable to conclude that the committee intended that dealers' equities include some safeguard for dealers' margins of profit or investment. Section 3 would apply this standard to any terminating, canceling, or not renewing of a dealer's franchise.[2] Any failure to renew, it seems clear, might drastically deplete a dealer's investment. Similarly, an increase in auto production might mean harder competition among dealers but a lower return for any one dealer. From this it follows that S. 3879 could oblige a manufacturer, I repeat, on pain of double damages, to gear his production and distribution to preserve each dealer's profitable investment.

Thus building for dealers a sanctuary from the rigors of competition seems at odds with basic principles of antitrust. It could effectively prevent manufacturers from responding with production or price changes to the stimuli of a free market. The result might be artificially to recreate as a permanent condition in the retailing of automobiles post-war shortages and prices still fresh in the minds of many. Completely frustrated would be that public interest in more and better products, as well as rival distribution methods which competition is meant to safeguard.

Finally, this language may raise constitutional problems. The bill no way limits the time from which damages may run. Thus, for example, dealer-manufacturer contracts presently in force might be held not to protect all the equities of the automobile dealer. Even though the manufacturer complied strictly with present contract terms, he still could be sued by a dealer—the day this bill became law—and subjected to punitive damages for past acts not illegal when committed.

For all these reasons, I am unable to recommend enactment of this bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

Mr. POTTER. Mr. President, as a result of the hearings held by the distinguished Senator from Wyoming, focusing public attention upon manufacturer-dealer relationships, the automobile manufacturers made some drastic changes in their management-dealer relationships and the provisions of their contracts, and also in the manner in which dealer grievances are considered. Those changes have recently gone into effect. It would seem to me folly of the first order for us to rush in assuming that legislation is the panacea for all troubles, before we ascertain whether the new policy on the part of manufacturers in their relationships with dealers is working successfully.

I hold no brief for any automobile manufacturers, or for any other manufacturers, who force automobiles, refrigerators, tires, or television sets on the dealers. The contracts between them should be two-way contracts. But this bill has a great deal more pain in it for the dealer than it has for the manufacturer. I hope that the Senate, in its wisdom, rather than to wait for the House committee to hold hearings, rather than to pass the bill and to pass the buck and let the House iron out the bumps, will recommit the bill to the committee. Immediate hearings could be held, and we could be assured of some legislative history on the meaning of the provisions of the bill. Then the bill could be brought before the Senate, according to this body its right to act upon a bill which had been properly considered. I should not like to think that the Senate would pass the buck to the House, saying, "You hold the hearings; you make the corrections; we want to get a bill out." The automobile industry has been suffering some pains in recent months, and I am frank to admit that many of those pains have been self-inflicted. There is an unemployment problem in the State of Michigan at the present time, but legislation of this kind will compound the problem, not only for the dealer, but for the manufacturer and the working population. Mr. President, this bill would do serious injury to the public interest. Therefore, I have moved that it be recommitted.

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[1] S. Rept. No. 2073, 84th Cong., 2d sess.

[2] Acknowledging the possibility that a manufacturer may fail to renew a dealer contract only on pain of double damages, the report, p. 6, states: "The bill would not permanently bind a manufacturer to his dealer. The dealer in case of nonrenewal has no right to require continuance of the relationship. He merely has a right to damages if the factory failed to act in good faith in refusing to renew the franchise."

LEGISLATIVE PROGRAM

Mr. JOHNSON of Texas. Mr. President, I should like to announce, for the information of the Senate, that on tomorrow we shall consider Calendar No. 2262, House bill 101, relating to the administration by the Secretary of the Interior of section 9, subsections (d) and (e) of the Reclamation Project Act of 1939, which bill has been reported from the Committee on Interior and Insular

Affairs; and Calendar Nos. 2263 to 2276, inclusive, being 14 bills reported from the Committee on the District of Columbia; and Calendar Nos. 2277 through 2280, inclusive, being 4 bills reported from the Committee on Interstate and Foreign Commerce. These measures have been cleared by the respective policy committees; and I have discussed this schedule with the distinguished minority leader, and he is agreeable to it.

The Health, Education, and Welfare Department appropriation bill is in conference. No conference has yet been held. We are hopeful that there may be a conference on that bill this week, and that the conference report can be brought before the Senate this week.

A conference is being held this afternoon on the Independent Offices appropriation bill. If an agreement is reached, I serve notice that we may take up that report later in the week.

The Public Works bill has passed the Senate. There is scheduled a meeting of the conference committee at 4 o'clock today.

The legislative appropriation bill has passed the Senate, and it may be that the House will accept the Senate amendments without a conference.

As the Senate has previously been informed, we shall take up the Defense Department appropriation bill Thursday, and have general discussion on Thursday and Friday—if Senators care to discuss it Friday—but there will be no votes on the Defense Department appropriation bill until Monday. We hope to conclude, on Monday or Tuesday, consideration of the Defense Department appropriation bill, to be followed by the foreign aid authorization bill.

Hearings are now being held by the Appropriations Committee on the foreign aid appropriation bill, but, of course, no action will be taken on that bill until after the Senate acts on the conference report on the foreign aid authorization bill.

The supplemental appropriation bill has yet to be reported. It cannot be acted upon until the Armed Services Committee acts upon the military public works bill, which it expects to do on next Tuesday.

I make this announcement so that Senators may know of the schedule which has been arranged for the next few days, and make their plans accordingly.

AUTOMOBILE DEALER'S DAY IN COURT

The Senate resumed the consideration of the bill (S. 3879) to supplement the antitrust laws of the United States, in order to balance the power now heavily weighted in favor of automobile manufacturers, by enabling franchise automobile dealers to bring suit in the district courts of the United States to recover twofold damages sustained by reason of the failure of automobile manufacturers to act in good faith in complying with the terms of franchises or in terminating or not renewing franchises with their dealers.

Mr. MONRONEY. Mr. President, I rise in opposition to the motion to recommit submitted by the distinguished Senator from Michigan. Within a few minutes this body will be called upon to decide whether the protests of the giants of the automobile manufacturing industry—namely, Ford, General Motors, and Chrysler, who manufacture 95 percent of the automobiles on the roads of this country—are going to be free and remain free to dictate, with the power of an absolute monarch, the rules of existence in the No. 1 industry of the United States of America and of the world.

Mr. President, the telegrams have poured out from these giants.

They seem to have such complete and total control of those in the Justice Department that the purpose of that department is always to defend the giants and to let small, competitive, free enterprise take its dictation according to whatever the oracles on the mount deside—according to their own whim and greater profit.

The hearings held by the committee of the Senator from Wyoming and by my own Committee extended over a period of 2 years. Prior to that time hearings had been held by the Committee on Interstate and Foreign Commerce on other proposed legislation designed to correct many of the cancerous abuses which had grown up under the very eyes of the men who operate and manage the giant automobile factories.

I am becoming a little tired of hearing the Department of Justice take the side of big business.

I thought the purpose of the Antitrust Division was to protect the rabbit from the hunter. But instead, under this administration, and according to the opinion of the very man, Mr. Rogers, who was quoted a few minutes ago by the distinguished Senator from Michigan [Mr. POTTER], the purpose of the game laws is to protect the hunter from the rabbit. So we have a peculiar distortion of emphasis, namely, that to provide for a free, competitive economy, we must be careful not to have even a set of Marquis of Queensberry rules—at a time when the three giants control 95 percent of the industry, and when a threat of monopoly exists which threatens 40,000 competitive, locally managed, locally financed, little-business men.

The report from the Department of Justice, signed by the Deputy United States Attorney General in opposition to the bill offered by the distinguished Senator from Wyoming, was written by the same gentleman who wrote an opinion on a similar bill that was being considered about 2 years ago by the Senate Committee on Interstate and Foreign Commerce. It was a mild bill allowing the manufacturers to write into their contracts, if they so chose, a prohibition against franchised dealers selling automobiles to dealers who were not franchised. The committee tried to get the thinking of the men on whom the administration seemed to rely as to its attitude toward little business. Let me quote from the opinion of Mr. William P. Rogers under date of July 21, 1954.

I shall not take the time of the Senate to read it all but he concludes with these words—he is the same man on whom the distinguished Senator from Michigan now relies to make a case against the bill offered by the Senator from Wyoming.

In closing, Mr. Rogers said:

> The fact that bootleg sales are so prevalent in the automobile industry may indicate that a large segment of the purchasing public favors a new method of distribution in the automobile industry. If the problem of automobile dealers is to be solved by enactment of the present bill, moreover, the way will be opened for countless appeals to Congress by every industry group with a real or fancied problem produced by intensified competition. The Department of Justice does not believe that the current competitive conditions in the automobile industry present a reasonable justification for tampering with the antitrust laws by granting special preferential exemptions which run counter to the American standard of a free, vigorous economy.
>
> Accordingly, the Department of Justice is opposed to the enactment of the bill.
>
> The Bureau of the Budget has advised that there is no objection to the submission of this report.

There was the idea that this was a "fancied problem." There was the idea that perhaps we ought to flush down the drain some 40,000 locally managed small businesses—because to pass any kind of legislation in this field would be abhorrent to those who are supposed to be running the Antitrust Division. The Department of Justice felt that it was necessary to protect the big three; to protect $7⅓ billion of concentrated wealth; never mind the 40,000 little local dealers who are trying to eke out a profit.

Only the other day the very same men who are so much opposed to the bill sent telegrams to their suppliers, including United States Steel and Bethlehem Steel and Pittsburgh Plate Glass, trying to influence the vote of the United States Senate. They said the dealers were making so much profit that to pass legislation now in this field would only multiply the vast "take" they are getting.

Also, they have been trying to raise the same type of hobgoblins which are being raised on the floor today, in an effort to defeat this bill, a bill which provides only that a dealer shall be given his day in court—an opportunity to sue in any Federal court for bad faith performance of a contract on the part of the manufacturer.

The other day in our subcommittee hearings I detailed some 15 or 20 bills which were pending before the House and the Senate. I asked the distinguished witness, the general counsel and vice president of the Ford Motor Co., if he favored any single one of the bills. There was not one that he favored. He did not even favor a bill introduced by the distinguished Senator from Michigan [Mr. POTTER], who now has moved to recommit the O'Mahoney bill. He was not even in favor of any of the Republican bills. It appears that the giants of the industry plainly do not want any legislation along this line. They are running the show, and they feel that they should continue to run the show.

I remind the Senators that this is not an unusual experience in Government. When we discussed the Federal bank deposit insurance, the big banks were against it, because the legislation gave

to the little banks the same right to guarantee the security of their bank deposits. The lobby in Washington urged Congress to vote to kill the bill, because it would interfere with the great productive free-enterprise system. I am for the great, free, productive-enterprise system. But I remind Senators that it is a competitive system; it is not a system which will work without competition.

Then, when the scandalous stock market situation arose, the Senator from Wyoming and others tried to secure corrective legislation which would insure honesty, decency, and ethical conduct. The Senate and House committees heard testimony to the effect that the Government was tinkering with business and was trying to destroy free enterprise. The same was true of the Holding Company Act. We heard about the scandalous graveyard list, and the same statements were made in an effort to destroy that bill.

Whenever the Government has moved to provide a set of Marquis of Queensberry rules to insure fair play and to prohibit hitting below the belt, it has always been charged with interference with the rights of business to operate.

But whenever the Government has insisted on fair play and fair practices, the very ones who have protested the action of the Government have found that such action has ultimately worked to their advantage—as well as to that of the smaller people which the law sought to protect.

I am becoming a little tired of hearing the Department of Justice, whenever legislation is proposed to help the little people and to help the competitive enterprise in this country survive in the face of an ever-growing tendency toward monopoly and concentration of power, raise the fear of hobgoblins, or contend that the law should be so broad as to include other types of industry. It seems that big business merely wants to have someone else on its team. They want the television, refrigerator, bicycle, motorcycle, and aircraft industries to be included.

Actually, I think the primary industry of this Nation and of the world is important enough to be the subject of legislation in this field. The committees spent many, many months in careful study of the conditions in the automobile industry. But if additional legislation is necessary to cover the farm implement, the television, the radio, or the refrigerator industries, all of which have franchise agreements, let us consider legislating for them later. I do not think Congress knows enough about all those subjects, or can know enough about them, in a single period of 2 years of investigation, to legislate across that whole field.

We are dealing with the No. 1 industry of America and the world. If that is not an important enough industry in which to legislate, I do not know what industry would be.

I regret that all Senators could not have attended the hearings and have learned of the fear that is in hearts of thousands of automobile dealers who were afraid to answer even a questionnaire with their names signed to it. This was because of the intimidation and pressures which have existed throughout the years, and the contract termination clauses which have served as economic death penalties if the dealers dared to incur the ire of the manufacturers.

This bill merely gives the dealer the right to go into court and lodge a suit, not to make the manufacturer prove good-faith performance, but for the dealer to prove the manufacturer's bad-faith performance of existing contracts. Some of the contracts which have existed in the past were the most one-sided contracts ever entered into by any businessman. Usually there is mutuality between the seller and a buyer. Usually if one is an independent retailer he has sources of supply consisting of some 2 to 10 or 20 or 100 manufacturers. This does not obtain, and cannot obtain, in the automotive industry.

Mr. President, the dealer is the captive buyer of a seller who can impose an economic death penalty in 90 days time by terminating the contract. This is regardless of how long the dealer may have been in business, regardless of how many hundreds of thousands of dollars he may have put into his building—at the company's instruction, building at a certain location, under certain specifications and design, and everything else insisted on by the factory. Yet there is, in practically every major contract existing today in the automotive industry, provision for economic loss of life in 90 days.

The bill would simply assure the dealer who signs a contract, one-sided though it may be—and they are still one-sided, and they will perhaps continue to be one-sided, weighted in favor of the factory—that he has a right to go into court and sue for damages for bad faith under the terms of the contract.

We see glistening tears being shed over Ford and General Motors, and over the fact that throughout the United States the individual dealers, who have an investment averaging $118,000, are going to victimize the Ford Motor Co. or General Motors.

Frankly, I think the bill has been well drafted. The basis for its need cannot be questioned even by its enemies and those who would seek to kill it by recommitment. I feel the bill merits action by the Senate, since it was unanimously reported by the subcommittee, and, I am told, unanimously reported by the full Committee on the Judiciary.

Generally, the purpose of most hearings is to determine whether legislation is needed in a particular field. Perhaps some correction of the bill can be made on the floor of the Senate, if the bill has any defects in it. But I cannot see any.

Frankly, I think the little dealers and little-business men are going to learn who their friends are today. They are going to find out whether the United States Senate is in favor of the continuation of little business or whether it is going to go all-out for greater and greater monopolization of our economic spectrum. The question is as simple as that.

Make no mistake, the motion to recommit, which has been submitted in good faith by the distinguished senior Senator from Michigan, is in fact a motion to kill the bill. We all know that Congress is nearing the end of its session, and we know that agreement to the motion to recommit today will mean the death of the bill and therefore, no legislation on the subject matter in this session.

So as we get near agreement or disagreement to the motion to recommit, which is apparently supported by the minority leader, who says he shall ask for the yeas and nays—and I support him in that request—we shall find out very quickly how we stand on the conflict between little-business interests and big-business interests. We shall find out the answer to that question on a bill which I think is completely equitable. I do not see how anyone in the world can say any American, no matter who he is, shall be denied his day in court, and shall not be given the opportunity to appear before a Federal judge and ask to be recompensed for damages which he has sustained as a result of bad faith on the part of another.

Are we in favor of bad faith in existing contracts?

We are not asked to turn the question over to a bureaucracy. We are not asked to turn the matter over to a board or a commission. We are asked to turn it over to Federal judges, so that a dealer may introduce evidence before the Judge, have him weigh the evidence, and determine whether or not, under the contract signed by the manufacturer and by the dealer, bad faith has been shown to have resulted in losses being sustained by the dealer—whether the losses which were sustained by the dealer were the result of bad faith on the part of the manufacturer.

Mr. GORE. Mr. President, will the Senator yield?

Mr. MONRONEY. I yield.

Mr. GORE. I have been in committee most of the afternoon. I left the committee to hear the address of the distinguished Senator from Oklahoma. I have been impressed by his arguments. I may say, in all candor, I have been in doubt as to how I should cast my vote on the bill. The Senator's arguments are impressive. I wonder if the Senator would be willing to give me, and perhaps other Senators who may be interested, the benefit of his reaction to the statement I have heard that the enactment of the bill would tend to freeze into permanence, so to speak, some of the bad trade practices of which many dealers complain.

Mr. MONRONEY. I certainly think the result would be the reverse of that. I have been involved in an independent study by the Interstate and Foreign Commerce Subcommittee on Automobile Marketing Practices. Because of that study, because of the activities of the antimonopoly subcommittee, and because we took the trouble to poll 40,000 automobile dealers on whether they thought legislation or Federal studies were needed in the field, we have seen, in recent months, great concessions made by the large automobile manufacturers. I will say this for them: As the situation exists today, they have gone far toward correcting the abuses about which most dealers were complaining. But the No. 1 complaint was

about contracts. The dealers fear the 90-day death sentence. Contracts still carry that clause, making the contracts subject to cancellation in 90 days, at the option of either party. It means that, no matter how much the local dealer's investment is, no matter how many years he may have been in business, no matter how much inventory he may be carrying, no matter how many employees were with his company, no matter whether his entire investment had been dictated by the factory—even down to the location in the block—the manufacturer, for no reason whatsoever, if he so chooses, can cancel out the dealership in 90 days. Such contracts exist still today in the automobile distributing business.

Such contracts will still exist under the bill. The only difference is that a dealer will have an opportunity to go into court and sue for damages. He must prove he sustained those damages as a result of bad faith on the part of the factory in carrying out the one-sided contract the factory had written.

I feel it is perfectly logical that automobile dealers should be given the same rights which practically every other competitive industry has, particularly because of the peculiar situation of having 95 percent of the supply of cars concentrated in the hands of 3 companies. Legislation such as is proposed in the pending bill is needed to provide for some microscopic degree of mutuality between the two contracting parties. Now, it is a case of there being a giant on the one hand, and a gnat on the other. The combined investment of the 40,000 automobile dealers is not an insignificant one. Although the average investment is $118,000, the total investment of the franchised dealers is about $5 billion, and these independent franchised dealers employ about 667,800 persons. We think of the automobile industry as consisting of big manufacturers. Yet they have a total investment of only $7⅓ billion, and they employ about 780,000. So the automobile industry is really divided into two halves. One-half has been the complete and total master of the other half. I have often said they are like the Siamese twins. When one of the Siamese twins, the independent franchised dealers, becomes anemic and withers away, it will not be long before the other twin will likewise die. I am not afraid of what was so blatantly told our committee only last week, practically in these words: if the Congress dared enact legislation in this field, the Ford Motor Co. might decide not to have any independent, franchised dealers. Mr. President, I do not like to have attempts made to bluff the Senate; I do not like threats or attempts to intimidate or coerce either the Senate or the dealers. Yet representatives of the Ford Motor Co. have repeatedly said that they would have to consider changing that company's entire automobile distribution system if we were to provide for equity and fair and decent treatment of the little, independently owned, independently financed automobile dealers.

In that connection, let us consider their present dealership structure. The manufacturers with good dealership structures are doing very well indeed. The automobile manufacturers that today are "on the rocks" or nearly "on the rocks" are those which do not have and cannot obtain satisfactory dealerships. In contrast, the manufacturers who are doing well have a cadre of well-equipped dealers who sell the manufacturers' products. We do not think the other half of the industry should forever be the slaves of the manufacturing half. We do not think the manufacturing half of the industry should be able to call the tune and determine which dealers shall survive and which shall "go under," and be able to pass economic death sentences at their whim or fancy. Do not worry about the bluff that automobile manufacturers will give up the advantages of the dealership system just because Congress writes a minimum amount of good faith and fair play into their relations with dealers.

The manufacturers now have corrected most of the abuses. But how long can we be sure they will remain corrected, especially in a difficult competitive condition in a bad automobile year, such as the present one?

And who caused the over-selling in the automobile market last year? It was not caused by the dealers. Instead, it was caused by the manufacturers—who forced on the market a million more automobiles than the market could absorb, and attempted to stretch the normal customer demand in one year to the size of the demand for 2 or 3 years. As a result, today there is vast unemployment, which has been caused by the desire of the manufacturers to overload the market last year, regardless of what would happen in this year.

Mr. President, the automobile dealers constitute an extremely large and extremely important industry. The investment of the automobile manufacturers in the United States amounts to approximately $7⅓ billion, and they employ approximately 780,000 persons. But the total investment of the franchised dealers is estimated to be nearly $5 billion, and they employ approximately 667,800 persons, or approximately 9.7 percent of total retail employment in the United States. The investment of the 42,000 dealers averages approximately $118,000 each.

Certainly we must be concerned when unethical practices, including "price packing"—adding unjustified charges—phony "blitz" sales, misleading advertising, and so forth, are engaged in. Today such practices are taboo by action of the automobile manufacturing companies. But do you not, Senators, think that a local small-business man with an investment of $200,000 or even $50,000 is entitled to some security beyond the whim or monetary desire of a manufacturer to do thus and so?

The pending bill is a corrective piece of proposed legislation designed to put a Marquis of Queensberry set of rules into effect in a business which really is a cornerstone of our domestic prosperity.

Mr. McNAMARA. Mr. President, will the Senator from Oklahoma yield?

The PRESIDING OFFICER (Mr. FREAR in the chair). Does the Senator from Oklahoma yield to the Senator from Michigan?

Mr. MONRONEY. I yield.

Mr. McNAMARA. From the previous remarks of the Senator from Oklahoma, I understood that the automobile manufacturers have an investment amounting to approximately $7.2 billion.

Mr. MONRONEY. They have an investment totaling approximately $7⅓ billion.

Mr. McNAMARA. And I also understood the Senator from Oklahoma to say that the total investment of the dealers is approximately $5 billion.

Mr. MONRONEY. Yes; $5 billion.

Mr. McNAMARA. Certainly the dealers constitute a very substantial part of the automobile industry.

Mr. MONRONEY. Certainly they do.

Furthermore, it is interesting to note the employment. Approximately 780,000 persons are employed by the automobile manufacturers in the United States, whereas approximately 667,800 persons are employed in the distribution and servicing branches of the industry.

Mr. McNAMARA. In other words, the figures indicate, do they not, that the two branches of this industry are nearly equal in size.

Mr. MONRONEY. Yes; they are Siamese twins.

Mr. McNAMARA. Does not the Senator from Oklahoma think that in view of that relationship, the industry would be better off without Government intervention? Could not the two branches of the industry conduct themselves in such a manner that the Federal Government would not have to enter into the picture? Have any remedies of that sort been suggested by either party?

Mr. MONRONEY. I do not think the pending bill provides for Government intervention. The bill merely will allow such a dealer to maintain, in court, a suit similar to that which 99.44 percent of all other businessmen in the United States can maintain in court. But because Philadelphia lawyers have written these one-sided contracts, although today a dealer can go into court and can file suit, his suit will be thrown out of court the next day.

This bill would allow damages to be awarded in such a suit if bad faith could be shown. Such a provision would not cause the complaint to be turned over to a board. Instead, the suits would be handled by the district courts of the United States. I do not think that the district courts of the United States are prejudiced, or that the verdicts in the district courts are awarded indiscriminately, or that they will refuse to recognize good faith as a proper defense on the part of a manufacturer to a suit for losses actually sustained.

Mr. McNAMARA. Did the investigation suggest recognition by manufacturers of a dealer organization? If such a dealer organization had recognition, would it be logical for representatives of the manufacturers to sit down at the bargaining table and bargain collectively with representatives of the dealer organization, as is done with representatives of other interested parties in the automobile industry?

Mr. MONRONEY. I may say to my distinguished colleague, who is a great leader of organized labor, that our early investigation showed rather conclusively that the then-existing dealer organizations were established on the basis of the various makes of automobiles, each one having a dealers' council; and they were about as close to being company unions as could be imagined. In other words, whatever the manufacturer wished the local dealers' council or the State dealers' council to decide, was usually decided.

The National Automobile Dealers Association did agitate for, and recommend, and now have had supplied, certain high-level officials to whom appeals may be made; but that arrangement is still made only by the grace of the manufacturers, and not as a matter of right

That is the purpose of the pending bill. We think the dealers have rights which should be recognized, rather than to have them be merely the recipients of the grace or noblesse oblige of the giant automobile manufacturers.

Is it wrong for a free, independent businessman to be able to have and to exercise the rights which usually are guaranteed to everyone else?

Mr. McNAMARA. I certainly agree with the viewpoint of the Senator from Oklahoma. Let me ask whether his answer implies that if there is what is commonly recognized as honest, collective bargaining between these two parties, there would be no need for legislation in this field.

Mr. MONRONEY. I would hardly say it is a field in which collective bargaining would work.

I think the collective opinions of the dealers, as obtained by means of our questionnaire, have been very helpful. We are trying to provide for the restoration of a certain amount of individual free bargaining, whereas today there is no such thing. Today the dealer is a captive buyer of a sole supplier. That is why the dealers constitute such a peculiar and unusual distribution group.

Mr. McNAMARA. Much has been made by the opposition to the bill of the so-called bootlegging dealer. Has not the subcommittee's investigation disclosed that the "bootlegging" situation is largely brought about by forcing too many automobiles on legitimate dealers?

Mr. MONRONEY. The questionnaire showed that the bootlegging situation was caused largely by overproduction, factory pressure, and maldistribution, which means that the oversupply of automobiles to the dealers was the principal cause, in the opinion of the dealers, for the bootleggers. Let me say that we received approximately 20,000 replies to the questionnaire.

Mr. President, the Senator from Michigan [Mr. McNAMARA] was inquiring about collective bargaining by the dealers. I believe they would then run afoul of the antitrust laws. I am inclined to believe that the idea of the Department of Justice is that the dealers would probably be prosecuted for getting together to bargain. Antitrust actions would probably be filed against the small dealers, although the monopolization of 95 percent of the automobile spectrum by three manufacturers does not seem important to the Department at this time—or to the Deputy Attorney General, who has made an adverse report on this bill, and who also made an adverse report some 18 months ago on a very innocuous bill which was then pending before the Committee on Interstate and Foreign Commerce.

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. MONRONEY. I yield.

Mr. CASE of New Jersey. The question which I have—or perhaps a series of questions—relates to the interpretation of the bill, and the judgment of the Senator from Oklahoma [Mr. MONRONEY], as well as the judgment of the distinguished Senator from Wyoming [Mr. O'MAHONEY], on the difficult question in the field of antitrust law.

The question arises in this way: Under the definitions in the bill, section 1, subsection (e), good faith is defined to mean "the duty of the automobile manufacturer, its officers, employees, or agents to act in a fair, equitable, and nonarbitrary manner so as to guarantee the dealer freedom from coercion, intimidation, or threats of coercion or intimidation, and in order to preserve and protect all the equities of the automobile dealer which are inherent in the nature of the relationship between the automobile dealer and automobile manufacturer."

In order to get at my point, I should like to ask the Senator first whether or not, in his judgment, if the manufacturer decided, we will say, without being able to prove any fault on the part of the dealer in a particular town in which there was only one dealer, that he would like to have another dealer in that town, he would, under the provisions of the bill if it should become law, be in violation if he granted to another person a dealership in that town?

Mr. MONRONEY. I do not see how such action would violate good faith in any way. I do not see how installing another dealership in a town would involve bad faith. However, if it so happened that the other dealership was established because of the refusal of dealer A to buy seat covers by the gross, or to buy cowboy and Indian suits, or to contribute a thousand dollars to a presidential political campaign, I should say that a suit based upon a charge of bad faith might lie. That is only my judgment. If a dealer failed to do certain things required in bad faith by the manufacturer, by means of coercion and intimidation—and we have had ample evidence before our committee of such cases—and if the result of the dealer's refusal to cooperate with the factory in the face of the threat of a new agency caused him to suffer damages, he might get into court. I think a Federal judge would hear the evidence on both sides, and rule whether or not the loss was occasioned by bad faith. I think each case would stand on the evidence submitted. I would rather have my distinguished friend, the primary author of the bill, elaborate on that question.

Mr. CASE of New Jersey. I would very much appreciate having the views of the distinguished Senator from Wyoming.

In order that I may have in mind the views of the Senator from Oklahoma, I will ask him one further question.

It is my understanding that the Senator's interpretation of the bill is that the mere act of granting another franchise in the same territory, in the absence of affirmative evidence of coercion, intimidation, or threats—as to which, I take it, the burden would be on the dealer—would not constitute a violation of the provisions of the bill.

Mr. MONRONEY. I do not read such a construction into the bill at all. If it is a clear case of the manufacturer merely wishing a second dealership, and there is no evidence of intimidation, coercion, or bad faith, I do not believe any violation of the law would be involved.

Mr. CASE of New Jersey. This is a question which has been somewhat difficult for me. I should not want the effect of any bill we pass to create exclusiveness in an area in which it is undesirable to have that principle established as valid.

Mr. MONRONEY. The tenor of many manufacturers has been that if Congress dares to enter the field, the heavens will fall, the world will stand still, people will stop buying automobiles, and, above all else, the dealer franchise system of small businesses will have to be dispensed with. It is the fear technique. We heard it frequently when the Holding Company Act and other pieces of legislation were before Congress for consideration.

Mr. CASE of New Jersey. I should like to ask the Senator from Oklahoma one further question, and then I shall be glad to have the views of the Senator from Wyoming.

In section 3 of the bill, toward the end, in the very last phrase, are the words: "by reason of the failure of said automobile manufacturer to act in good faith in performing or complying with any of the terms or provisions of the franchise, or in terminating, canceling, or not renewing the franchise with said dealer."

Is it the Senator's view that it is obligatory on a manufacturer to extend or renew franchises indefinitely under this bill, or would there be a violation of law only if there were affirmative evidence that a manufacturer had refused to renew in the course of a process of coercion, intimidation, or threats of coercion and intimidation?

Mr. MONRONEY. As I read the language—and I should like to have the distinguished primary author of the bill amplify the point—only in the event of nonrenewal, in connection with which bad faith could be proved by the dealer whose franchise was terminated, would any rights accrue, and then only to the extent of provable damages.

Mr. CASE of New Jersey. The question is, What is good faith? This colloquy may be helpful in spelling out our intent. I have no wish to complain about the difficulties which I know exist in writing legislation of this sort. An indefinite right of renewal is not one of the equities of an automobile dealer, I take it.

Mr. MONRONEY. By way of amplification of that point, let me say that if the failure to renew was because a zone or district manager had a brother-in-law who was trying to buy that agency and

its physical assets for about half of what they were worth, and if the dealer could prove that—and many dealers came before our committee with such charges—and if the dealer had a proper right to bring such suit, and if he could prove such bad faith, then I believe he should recover. I believe the Senator from New Jersey believes so, also.

Mr. CASE of New Jersey. I would have great sympathy in such cases. Suppose one were to buy the agency and physical assets for their full value?

Mr. MONRONEY. I would still say that it would be apt to be bad faith unless there were extenuating circumstances showing why the long-term relationship of the dealer should be terminated. I think if there is preference, discrimination, and things of that kind, the court would then decide—and only the court could decide—first, whether there was bad faith, and, second, whether damages were sustained as the result of bad faith. If it were proved in court that the dealer received full value, I believe there would be very little by way of damages that he could collect.

Mr. CASE of New Jersey. That, of course, would depend upon whether there was in effect a permanent franchise. In a sense, we are begging the question or chasing ourselves around a circle when we talk about good faith, because good faith is a term of art; it is not a matter of common definition or understanding, as is the case with the term "good morals." I am only trying to arrive at an understanding, not to argue the merits of the bill.

Mr. MONRONEY. If we place such cases in the jurisdiction of the Federal district courts, where the term "good faith" is so well recognized—and with the amplification in the bill of the definition, so as to make it apply to the peculiar franchise relationship and the responsibility of a manufacturer to a dealer—I have no fear of our courts in that regard. In other words, if we were placing the jurisdiction in matters of this kind, in a commission or in a board, I would be somewhat concerned. However I feel that anyone should have a right to sue. Perhaps anyone can sue now, but under the peculiar terms of most of the present franchises, a dealer who brings the kind of suit to which we have been referring is thrown out of court almost on the day he comes into court.

Mr. CASE of New Jersey. I agree thoroughly with the Senator from Oklahoma and concur fully in what he has said with reference to his confidence in the courts. The point is that we are now writing a law for the courts to apply and to interpret. The purpose of the colloquy is to attempt to define more clearly—at least that is the thought of the Senator from New Jersey in connection with this colloquy—the meaning of the law and the nature of the substantive rights which are being created, for which drastic remedies are being provided.

Therefore I should like to press just a little further the question of the renewal of franchise. Is it necessary that a failure to renew be coupled with intimidation, coercion, or threats of that kind, in order to have a failure to renew create a cause of action under the bill, or would mere failure to renew, without any evidence of coercion or intimidation, or such threats, be sufficient to give rise to a cause of action?

Mr. MONRONEY. I would answer the latter part of the Senator's question first. In my opinion, failure to renew would not, per se, give the dealer a cause of action. There would have to be other circumstances which would indicate bad faith. I would not say that bad faith would be so limited, necessarily, as to include only 2 or 3 things. I believe the court would be capable of observing whether bad faith was the principal reason for the nonrenewal.

Mr. CASE of New Jersey. I am grateful to the Senator from Oklahoma for his explanation. I would appreciate it very much if the Senator from Wyoming would be good enough to make some observations on this point.

Mr. O'MAHONEY. I believe that the colloquy between the two Senators has been very helpful indeed. I could not have asked for better answers to the questions asked by the Senator from New Jersey than the answers which have been given by the Senator from Oklahoma. I would not attempt to improve upon what he has said. He has made it clear that the purpose of the bill is to give the automobile dealer a cause of action in order to protect him from abuses which have been rampant in the industry. That is all.

It is not intended to give a permanent franchise or to separate a cause of action from the integral abuses which are mentioned in the definition of good faith.

During the early part of the day, when we were discussing the bill, I was asked several questions, the answers to which I believe will help the Senator from New Jersey in understanding the intent of the bill.

The question was asked about bad faith on the part of the dealer. We have no objection whatever to good faith being required on the part of the dealer. We are trying to bring about a situation which will prevent the resumption of the abuses which have prevailed in the past and to protect good faith on all sides.

If the Senator from New Jersey will be kind enough to look at the bill, particularly at section 1 (e), about which he was questioning the Senator from Oklahoma, I may say that, in order to make clear that the obligation of good faith lies on the dealer as well as upon the manufacturer, I would be very glad to amend the section in the manner I shall indicate. The Senator may wish to mark it down as I proceed.

Beginning in line 22, on page 2, I would strike out the words "the automobile manufacturer, its" and insert in lieu thereof the words "each party to any franchise and all", so that that part of the sentence would read:

(e) The term "good faith" shall mean the duty of each party to any franchise and all officers employees, or agents to act in a fair, equitable, and nonarbitrary manner so as to guarantee—

In line 25 I would strike the words "the dealer" and insert in lieu thereof the words "such other party", so as to make that part of the sentence read: "guarantee such other party freedom from coercion, intimidation, or threats of coercion or intimidation."

Then in line 1, page 3, I would strike out the words "and in order to preserve and protect" and insert in lieu thereof the words "so as to preserve."

In line 2, page 3, I would strike the first 3 words, "serve and protect" and the last 3 words on line 2, "the automobile dealer" and insert in lieu of the latter "such other party", so as to make that part of the sentence read: "so as to preserve all the equities of such other party which are inherent in the nature of the relationship."

In line 3 I would insert the word "created" between the words "relationship" and "between".

Then I would strike out all of line 4 and insert in lieu thereof the words: "such parties by such franchise."

Subsection 1 (e) would then read:

The term "good faith" shall mean the duty of each party to any franchise and all officers, employees, or agents to act in a fair, equitable, and nonarbitrary manner so as to guarantee such other party freedom from coercion, intimidation, of threat of coercion, or intimidation, so as to preserve all the equities of such other party which are inherent in the nature of the relationship created between such parties by such franchise.

That would be a definition of good faith, and would place the duty upon both parties to the franchise. I would be very happy indeed to offer such an amendment. I would be willing, even, to go so far as to strike out section 2 altogether.

Mr. CASE of New Jersey. It is sort of redundant.

Mr. O'MAHONEY. Because, as the Senator from New Jersey says, it is sort of redundant. But section 3 I would allow to remain as it is, and the rest of the bill as it is.

As I was reading section 1 (e) as I would have amended it, and came to the words "freedom from coercion, intimidation, or threats of coercion or intimidation," it occurred to me that the whole record shows that no small dealer in a little town was ever in a position to apply any threats of coercion or intimidation to any of the manufacturers. That is the reason why we did not write it into the bill in the first place. But, of course, it is necessary to make the provision clear, and I am very willing indeed to offer those amendments, which I hope will be satisfactory to the Senators who have raised the question about the term "good faith."

Mr. BRICKER. Mr. President, will the Senator from Wyoming yield?

Mr. O'MAHONEY. I yield.

Mr. BRICKER. Will the Senator read the first four lines on page 2, again, please.

Mr. O'MAHONEY. Let me read the whole of subsection (e) as I am willing to have it read. I shall be glad to offer this amendment which will make it read:

The term "good faith" shall mean the duty of each party to any franchise and all officers, employees, or agents to act in a fair, equitable, and nonarbitrary manner so as to guarantee such other party freedom from

coercion, intimidation, or threats of coercion or intimidation, so as to preserve all the equities of such other party which are inherent in the nature of the relationship created between such parties by such franchise.

We have made a sincere effort to clarify the matter.

Mr. THYE. Mr. President, will the Senator from Wyoming yield?

Mr. O'MAHONEY. I yield.

Mr. THYE. Would that involve any other person than an automobile dealer?

Mr. O'MAHONEY. No.

Mr. THYE. In other words, the automobile dealer is defined in the bill, and he would not in any sense have his identity lost in this paragraph?

Mr. O'MAHONEY. No.

Mr. THYE. The provision would not go beyond that one question?

Mr. O'MAHONEY. I can understand that the Senator, reading this bill, perhaps for the first time, would be very anxious to be sure that we are acting in good faith, and are not attempting to present a bill which is not in good faith. That is not and never has been the purpose of the Judiciary Committee or its subcommittee. We are acting only for the purpose of establishing good relations between the parties.

Mr. CASE of New Jersey. Mr. President, will the Senator from Wyoming yield further?

Mr. O'MAHONEY. I yield.

Mr. CASE of New Jersey. There is one question which I should like to address to the Senator. In his judgment, would a cause of action arise on the part of either party against the other by reason of the amendment, for breach of good faith, which could be enforced by a suit at law?

Mr. O'MAHONEY. Bear in mind that franchises, as they now exist, are not enforceable in court. The dealer is a minnow in a sea full of whales. I should not say "full of whales," because there are only a few left. But the dealer has no present way of defending himself, and he has been the victim of abuses which all have acknowledged.

So that there would not be created by reason of this definition, as I see it, any cause of action which would be frivolous or which might constitute coercion.

Mr. CASE of New Jersey. I had no thought of suggesting that. I was merely trying to find out what consequences the proposed amendment would bring.

I wonder if I may now propound another question to the Senator?

Mr. O'MAHONEY. Let me give the Senator this further answer: It would be a guaranty that the manufacturer could raise a question, when sued, of a lack of good faith on the part of the dealer.

Mr. CASE of New Jersey. The Senator anticipates my next question, which is this: Would it, in the Senator's judgment, be desirable, and would he be willing to accept an amendment to section 3 providing that lack of good faith on the part of a dealer would be a defense to the action brought by the dealer against the automobile manufacturer?

Mr. O'MAHONEY. I am inclined to believe there would be no objection to that, but I wish to consult my lawyer. [Laughter.]

I would accept such an amendment.

Mr. CASE of New Jersey. I thank the Senator.

Mr. BRICKER. How would the section read?

The PRESIDING OFFICER. The Chair would inform the distinguished Senators that a little difficulty is being encountered in knowing what is going on.

Mr. O'MAHONEY. I may say to the Presiding Officer that I have been endeavoring to talk to him as well as to the Senator from New Jersey, and I assure him that when this colloquy, which is conducted through him with other Members of the Senate, is completed, I shall restate the proposed amendment in such form that not even the Presiding Officer will be in doubt.

Mr. CASE of New Jersey. Mr. President, may I ask that everywhere I have spoken, the words "Mr. President" precede my statement? [Laughter.]

I wonder if the Senator from Wyoming would consent to an amendment to section 3.

The PRESIDING OFFICER. The Chair would inform the distinguished Senator from Wyoming that under rule XXII of the Senate the pending motion to recommit has precedence over any amendment.

Mr. O'MAHONEY. Mr. President, no amendment has been offered. Because of my recognition of that rule I have avoided offering any amendment. I am trying to get an agreement among Senators who are endeavoring to perfect a good bill.

The PRESIDING OFFICER. Therefore, an amendment at this time can be considered only by unanimous consent.

Mr. O'MAHONEY. I am aware of the rule, Mr. President, and I have not transgressed it, but I am glad to have received the warning of the Presiding Officer.

Mr. CASE of New Jersey. Mr. President, will the Senator from Wyoming yield?

Mr. O'MAHONEY. I yield, gladly.

Mr. CASE of New Jersey. Mr. President, I am wondering if it would be possible for the Senator from Wyoming to suggest the nature of the language of an amendment to section 3 which, the parliamentary situation being appropriate, I might be willing to have offered to that section in order to make it clear that lack of good faith would be a defense.

Mr. O'MAHONEY. I thought from the way in which the Senator offered his suggestion of an amendment it was very clear and very accurate. My counsel has been taking it down, and I am going to see now whether it will be satisfactory to all concerned.

Mr. ALLOTT. Mr. President, will the Senator from Wyoming yield?

Mr. O'MAHONEY. I am about to answer the Senator from New Jersey.

Mr. ALLOTT. Then I will withhold. I should prefer to wait until the Senator from Wyoming has answered the Senator from New Jersey.

Mr. O'MAHONEY. The Senator from New Jersey has suggested an amendment to section 3 which, in principle, is agreeable to me, and it has been put into legal language.

Mr. BRICKER. Has the Senator read section 3 of the amendment, which I gave him a moment ago?

Mr. O'MAHONEY. Yes, I have.

Mr. BRICKER. Would that accomplish what the Senator has in mind?

Mr. O'MAHONEY. It is directed toward the same end.

Mr. BRICKER. That is what I mean. It has the same purpose which the Senator had in mind.

Mr. O'MAHONEY. It has the same purpose which I had in mind, but I should prefer, since I have not had an opportunity to consult with the other members of the committee, to state it in the form in which the Senator from New Jersey [Mr. CASE] and I have already come to an agreement. I think it will be substantially in agreement with what the Senator first suggested.

Mr. BRICKER. The Senator will note that the amendment which I have prepared would limit the damages to actual damages rather than to double damages. Double damages are punitive. I think we must consider that the bill affects interstate commerce, and that there is no reason for punitive damages to be awarded to any party if he recovers actual damages.

Mr. O'MAHONEY. I am willing to accept such a provision, too.

Mr. BRICKER. I shall be willing to agree to that.

Mr. O'MAHONEY. Therefore, when the appropriate time comes to submit an amendment, it will be in line 13, page 3, of the bill now before the Senate, and will be to strike out the words "twofold the", and insert in lieu thereof "compensatory", so as to make the phrase read: "shall recover compensatory damages by him sustained."

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. O'MAHONEY. I yield.

Mr. CASE of New Jersey. I may say to the Senator from Wyoming that this removes one of the very great difficulties I have had with the bill. With the changes suggested, including the reduction of damages so as to provide for the recovery of damages actually sustained, and the cost of the suit, I think the bill is much improved.

Mr. O'MAHONEY. It is a great pleasure to work with a Senator who is so comprehending and so intelligent. I am very happy indeed.

Mr. CASE of New Jersey. I blush to hear the compliment of the Senator from Wyoming.

Mr. MONRONEY. Mr. President, will the Senator yield for a parliamentary question?

Mr. O'MAHONEY. I yield.

The PRESIDING OFFICER. The Senator from Oklahoma will state his parliamentary question.

Mr. MONRONEY. As I understand, the amendment suggested by the distinguished chairman of the subcommittee of the Committee on the Judiciary to modify the bill will not be in order until the motion to recommit, on which a yea-and-nay vote has been ordered, has been disposed of. Is that correct?

The PRESIDING OFFICER. That is correct, except by unanimous consent.

Mr. BRICKER. Mr. President, will the Senator yield for a further question?

Mr. O'MAHONEY. I yield.

Mr. BRICKER. What about the mutuality of obligation in section 3, as suggested by the Senator from New Jersey? Is that to be worked out later, or will it be consistent with the language which I submitted to the Senator a moment ago?

Mr. O'MAHONEY. This is the way in which the Senator from New Jersey and I agreed upon the proposed amendment—I do not believe there is any need for using the word "mutuality."

On page 3, line 18, strike out the period after the word "dealer" and insert in lieu thereof a colon and the words: "*Provided*, That in any such suit the manufacturer shall not be barred from asserting in defense of any such action the failure of the dealer to act in good faith."

May I ask the Senator from New Jersey if that does not meet with his approval?

Mr. CASE of New Jersey. Could the words "as a defense" be added?

Mr. O'MAHONEY. Oh, yes. I said "in defense of any such action."

Mr. CASE of New Jersey. That states accurately the thought which the Senator and I had during our earlier colloquy.

Mr. BRICKER. Mr. President, will the Senator further yield?

Mr. O'MAHONEY. I yield.

Mr. BRICKER. Is there any doubt whatever in the Senator's mind whether or not the manufacturer would be precluded from a suit by the giving of a special right to the dealer, and not naming the manufacturer in that section?

Mr. O'MAHONEY. I think there is no danger of that.

Mr. BRICKER. I am not inclined to think there is. I merely wanted to make the record certain.

Mr. O'MAHONEY. I quite agree with the Senator from Ohio.

Mr. BRICKER. What right, then, does this give to the dealer, especially, which would not be given to the manufacturer?

Mr. O'MAHONEY. The only right which the dealer would acquire which is not specifically given to the manufacturer would be the right to bring the suit to challenge the good faith of the manufacturer. The reason for that is that with the very preponderant economic strength possessed by the manufacturer, on the one hand, and the puny strength of the dealer, on the other hand, there is no need to authorize the manufacturer to bring a suit in good faith against a dealer.

Mr. BRICKER. But when the suit is brought, under the wording, then, the manufacturer could raise the question of good faith, as set forth in paragraph 1 of the bill.

Mr. O'MAHONEY. Absolutely.

Mr. BRICKER. What about section 2? Did the Senator suggest that he would be willing to strike that out?

Mr. O'MAHONEY. I suggested I would be willing to strike it out. It is redundant; it is surplusage.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. O'MAHONEY. I yield.

Mr. ALLOTT. I should like to raise a question which I believe was touched upon by the Senator from Michigan [Mr. POTTER], and perhaps was touched upon by the Senator from Wyoming himself. It is a question which I believe is very pertinent to the situation.

From what I have been able to learn, one of the great difficulties concerning the bootlegging problem has been that certain dealers who are strategically located have taken large numbers of cars from a particular manufacturer and then have bootlegged the cars, in turn, to other persons throughout the country.

In other words, as I understand, it is impossible for anyone except a dealer to get cars, but authorized dealers have been guilty of the practices which produce bootlegging.

Mr. O'MAHONEY. If I may interrupt the Senator before he proceeds any further, I want to have this matter nailed down.

In all the hearings conducted by the Subcommittee on Antitrust Monopoly, and also, I feel certain, by the subcommittee headed by the Senator from Oklahoma [Mr. MONRONEY], there has not been a single instance cited in which any manufacturer has terminated the contract of a dealer for bootlegging—not one.

Many a dealer has said to the members of the subcommittee, "If the factory wants to stop bootlegging, the factory can do it."

Mr. ALLOTT. Let us follow this through. I was not able to read the volumes of testimony taken in the two hearings, and I do not suppose very many other Senators have done so.

What I should like to pin down—and I think it is necessary for the protection of dealers throughout the country—is that the original bill provided, at the top of page 3:

> Protect all the equities of the automobile dealer which are inherent in the nature of the relationship between the automobile dealer and automobile manufacturer.

As I understand the proposed amendment, it would read as follows: "so as to preserve all the equities of such other party which are inherent in the nature of the relationship between such parties by such franchise."

Mr. O'MAHONEY. "Created between such parties."

Mr. ALLOTT. Very well; "created between."

What I wish to pin down for the record is that enumerated among the equities is not the right of any dealer to bootleg cars and to make possible the bootlegging practice.

In other words, as the bill was originally written, it occurs to me that when it said, "protect all the equities of the automobile dealer," it was in effect protecting and preserving the rights of the particular few automobile dealers around Detroit who bootleg. Do we all understand for the record that among these equities there is not included the right to perpetuate the practice of bootlegging among dealers?

Mr. O'MAHONEY. I cannot follow the Senator's argument at all. The provision which we have written into the bill to preserve equities certainly cannot be interpreted as preserving the right to bootleg cars. What the Senator is saying means only this, in other words: There is a danger, as he sees it, that the bootlegger would be entitled to assert, as an equity against the manufacturer, the right to receive cars which the dealer had been selling at low prices to the bootlegger.

Mr. ALLOTT. No.

Mr. O'MAHONEY. That is where the bootlegging starts.

Mr. ALLOTT. No. I believe the Senator has forgotten some of the testimony which was given before his committee. I am not saying that this practice is universal, but the car dealers in my State inform me, and have so informed me on numerous occasions, in an attempt to educate me on this subject, that it is the dealers, particularly in the central Detroit area, and within several hundred miles of there, who take large numbers of cars and bootleg them, at $25 or $50 a car, to the rest of the country.

Let us consider a given dealer. Let us suppose he could legitimately handle, through his agency, 200 cars a year, but he handles 500 cars a year, and handles the extra 300 on the basis of bootlegging them at $50 a car. The question I want to propound in this particular instance, so we may all understand what is being done, is this: The right to continue to demand those 300 cars a year and to bootleg them and thus to destroy the legitimate dealer, is not one of that dealer's equities, is it?

Mr. O'MAHONEY. I do not think there is a jury in the country that would accept such an interpretation of the law as good faith.

Mr. ALLOTT. It would depend on the contract itself.

Mr. O'MAHONEY. If the dealer were doing what the Senator has just described, he would find that no lawyer would take his case into court, alleging that the manufacturer had violated good faith.

Mr. ALLOTT. The distinguished Senator from Wyoming, who himself is a lawyer——

Mr. O'MAHONEY. The Senator compliments me. I merely struggle along with the English language.

Mr. ALLOTT. I am sure he would find counsel.

I wanted to bring this point out, because it seemed to me that otherwise we might very well be perpetuating a system of bootlegging, which is in itself bad. I realize now the Senator has the same view I have, but I wanted the RECORD to be absolutely clear in this respect.

Mr. BRICKER. Mr. President, will the Senator from Wyoming yield?

Mr. O'MAHONEY. I was going to ask the Senator from Ohio and the Senator from New Jersey, if the language which I have suggested as being willing to accept were offered as an amendment to the bill, it would be satisfactory to them. Then I should like to follow that inquiry with a question addressed to the Senator from Michigan [Mr. POTTER] as to

whether he would not, in those circumstances, be willing to withdraw his motion to recommit the bill.

Mr. BRICKER. I am sure subsection (e) is entirely satisfactory. I think section 2 is redundant and should be stricken. As to section 3, I think there ought to be complete mutuality of statement, as in subsection (e). I should like to ask the distinguished Senator from Wyoming a question concerning the right to bring suit in the district court of the United States "in the district in which said manufacturer resides."

There is no question of the right to bring suit if it involves interstate commerce. There is no question of the right of jurisdiction if there is diverse citizenship. Would the bill give a dealer in the State of Michigan, for instance, the right to sue one of the manufacturing companies of Michigan in a district court of Michigan if interstate commerce were not involved? And if that is the case, would the Congress have the power to give such jurisdiction to the Federal courts, which jurisdiction is extremely delimited in the Constitution of the United States?

Mr. O'MAHONEY. The language in the bill is "in the district in which said manufacturer resides, or is found, or has an agent, without respect to the amount in controversy."

I am afraid, speaking frankly to the Senator, that I would have to fall back upon the intention which, I think it is generally agreed, is that the automobile business is so national in scope that it is commerce, and that such a suit might be brought. No doubt many of the dealers within the State where the manufacturer also resides do business outside the boundaries of a State, and come within the definition of "commerce" in its very narrowest sense.

Mr. BRICKER. Of course, if the definition of interstate commerce includes that, then there is no question about it; but if it does not, there is some question in my mind whether or not the Federal courts would have jurisdiction. They have jurisdiction over all the laws of the United States, and the laws of the United States cannot detract from or subtract from the jurisdiction of the Federal courts, as set forth in section 2, article III, of the Constitution; but, it would not be a law of the United States the court would be considering; it would be a contract.

Mr. O'MAHONEY. I will say to the Senator from Ohio that there have been so many court decisions concerning the definition of "commerce," which word is contained in the bill, that there would be no question about it.

Mr. BRICKER. I thank the Senator.

Mr. O'MAHONEY. Would the Senator from Michigan, in those circumstances I have mentioned, withdraw his motion?

Mr. POTTER. Mr. President, I will say to my distinguished friend from Wyoming that because of the fact that much of the bill is proposed to be rewritten on the floor, it would seem to me that the debate which has taken place so far fortifies the need for further study of the bill. I can assure the Senator that, while I am not a lawyer, I have tried to pay as close attention to what has transpired on the floor as possible. Nevertheless, I am sure many Members of the Senate will not be informed as to what is in the bill when they are asked to vote on it.

For that reason, I shall insist upon my motion to recommit.

SEVERAL SENATORS. Vote! Vote!

Mr. O'MAHONEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The MONRONEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. POTTER. Mr. President, I should like to ask a question of my distinguished friend the Senator from Wyoming [Mr. O'MAHONEY]. Do I correctly understand that the proposed amendments which have been discussed with the senior Senator from Ohio [Mr. BRICKER] and the junior Senator from New Jersey [Mr. CASE] are acceptable to the distinguished Senator from Wyoming?

Mr. O'MAHONEY. Yes. I wrote them after examining the suggestions which were made by the Senator from Ohio. Apparently they were agreeable to him; and I shall submit those amendments immediately when the parliamentary situation permits me to do so.

Mr. POTTER. Mr. President, I think it is certainly most unsatisfactory to attempt to write legislation on the floor of the Senate. Personally, I would much prefer to have proposed legislation of this character considered by the appropriate committee, and to have the committee hold hearings at which all interested parties could appear and could testify.

Personally, I feel that it is very bad practice to attempt to write legislation on the floor of the Senate. Therefore, I shall vote against the bill, because I still believe that when the vote is taken on the bill, many Members of the Senate will be voting with little, if any, understanding of its provisions.

However, as a result of the debate which has transpired today, and the agreement which has been reached on the proposed amendments, I am prepared to withdraw my motion to recommit the bill, so that the Senator from Wyoming will be able to submit the amendments which have been discussed.

Mr. O'MAHONEY. Mr. President, I am quite willing that that shall be done. However, the parliamentary situation, as I understand it, is such that the Senator from Michigan will have to request unanimous consent that the motion to recommit may be withdrawn.

Mr. WOFFORD. Mr. President, I object.

The PRESIDING OFFICER. No unanimous-consent request has yet been submitted, but objection by the Senator from South Carolina is heard.

Mr. POTTER. Mr. President, I move that the motion to recommit Senate bill 3879 be withdrawn.

The PRESIDING OFFICER. Does the Senator include within his motion a motion to rescind the order for the yeas and nays?

Mr. POTTER. Yes.

Mr. O'MAHONEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. O'MAHONEY. Is it not necessary for the Senator from Michigan to obtain unanimous consent to withdraw the motion to recommit?

The PRESIDING OFFICER. The Chair informs the Senator from Wyoming that it is necessary for the Senator from Michigan to obtain unanimous consent to withdraw the motion to recommit.

Mr. POTTER. Mr. President, I move to lay on the table the motion to recommit.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan to lay on the table the motion to recommit.

Mr. KERR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Chair informs the Senator that the last motion takes precedence over the motion to recommit.

The question is on agreeing to the motion by the Senator from Michigan [Mr. POTTER] to lay on the table his motion to recommit. The motion to lay on the table is not debatable.

Mr. KERR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KERR. As I understand, the motion of the Senator from Michigan now is to lay on the table his own motion to recommit.

The PRESIDING OFFICER. That is correct. [Putting the question.]

Mr. POTTER'S motion to lay on the table his motion to recommit was agreed to.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. O'MAHONEY. Mr. President, in accordance with the understanding reached with the Senator from Ohio [Mr. BRICKER], the Senator from New Jersey [Mr. CASE], and other Senators, I offer the amendments which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendments offered by the Senator from Wyoming will be stated.

The LEGISLATIVE CLERK. On page 2, beginning with line 21, it is proposed to strike out all of subsection (e) and to insert in lieu thereof the following:

(e) The term "good faith" shall mean the duty of each party to any franchise, and all officers, employees, or agents to act in a fair, equitable, and nonarbitrary manner so as to guarantee such other party freedom from coercion, intimidation, or threats of coercion or intimidation, so as to preserve all equities of such other party which are inherent in the nature of the relationship created between such parties by such franchise.

It is proposed to strike out all of section 2; and in line 18 on page 3, to strike out the period, insert a colon, and the following: *"Provided,* That in any such

suit the manufacturer shall not be barred from asserting in defense of any such action the failure of the dealer to act in good faith."

It is proposed to change the section number in line 8 on page 3 from "3" to "2"; and in line 13, to strike out the words "twofold the" and insert "compensatory."

The PRESIDING OFFICER. Is there objection to the consideration en bloc of the amendments offered by the Senator from Wyoming? The Chair hears none.

The question is on agreeing to the amendments offered by the Senator from Wyoming.

The amendments were agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CLEMENTS. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Texas [Mr. DANIEL], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Rhode Island [Mr. GREEN], the Senator from Oregon [Mr. MORSE], the Senator from Virginia [Mr. ROBERTSON], the Senator from Georgia [Mr. RUSSELL], and the Senator from Florida [Mr. SMATHERS] are absent on official business.

The Senator from North Carolina [Mr. ERVIN] is absent because of a death in his family.

The Senator from West Virginia [Mr. NEELY] is necessarily absent.

I further announce that if present and voting the Senator from Nevada [Mr. BIBLE], the Senator from Texas [Mr. DANIEL], the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Rhode Island [Mr. GREEN], the Senator from Oregon [Mr. MORSE], the Senator from West Virginia [Mr. NEELY], the Senator from Virginia [Mr. ROBERTSON], the Senator from Georgia [Mr. RUSSELL], and the Senator from Florida [Mr. SMATHERS] would each vote "yea."

Mr. SALTONSTALL. I announce that the Senators from Connecticut [Mr. BUSH and Mr. PURTELL], the Senator from Maryland [Mr. BUTLER], the Senator from Nebraska [Mr. HRUSKA] are absent on official business.

The Senator from Arizona [Mr. GOLDWATER] is necessarily absent in order to attend the wedding of his daughter.

The Senator from New York [Mr. IVES] is absent because of illness.

The Senator from Utah [Mr. BENNETT] and the Senator from Wisconsin [Mr. WILEY] are necessarily absent.

The Senator from Indiana [Mr. CAPEHART] is detained on official business.

If present and voting, the Senator from Utah [Mr. BENNETT], the Senator from Maryland [Mr. BUTLER], and the Senator from Wisconsin [Mr. WILEY] would each vote "yea."

The result was announced—yeas 75, nays 1, as follows:

YEAS—75

Aiken	Gore	McCarthy
Allott	Hayden	McClellan
Anderson	Hennings	McNamara
Barrett	Hickenlooper	Millikin
Beall	Hill	Monroney
Bender	Holland	Mundt
Bricker	Humphrey	Murray
Bridges	Jackson	Neuberger
Byrd	Jenner	O'Mahoney
Carlson	Johnson, Tex.	Pastore
Case, N. J.	Johnston, S. C.	Payne
Case, S. Dak.	Kefauver	Saltonstall
Chavez	Kennedy	Schoeppel
Clements	Kerr	Scott
Cotton	Knowland	Smith, Maine
Curtis	Kuchel	Smith, N. J.
Dirksen	Laird	Sparkman
Douglas	Langer	Stennis
Duff	Lehman	Symington
Dworshak	Long	Thye
Eastland	Magnuson	Watkins
Ellender	Malone	Welker
Flanders	Mansfield	Williams
Frear	Martin, Iowa	Wofford
George	Martin, Pa.	Young

NAYS—1

Potter

NOT VOTING—19

Bennett	Fulbright	Purtell
Bible	Goldwater	Robertson
Bush	Green	Russell
Butler	Hruska	Smathers
Capehart	Ives	Wiley
Daniel	Morse	
Ervin	Neely	

So the bill (S. 3879) was passed.

The title was amended so as to read: "A bill to supplement the antitrust laws of the United States, in order to balance the power now heavily weighted in favor of automobile manufacturers, by enabling franchise automobile dealers to bring suit in the district courts of the United States to recover compensatory damages sustained by reason of the failure of automobile manufacturers to act in good faith in complying with the terms of franchises or in terminating or not renewing franchises with their dealers."

AMENDMENT OF DISTRICT OF COLUMBIA POLICE AND FIREMEN'S SALARY ACT OF 1953

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 2261, H. R. 10060.

The PRESIDING OFFICER (Mr. FREAR in the chair). The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 10060) to amend the District of Columbia Police and Firemen's Salary Act of 1953, as amended.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1957—AMENDMENT

Mr. BRIDGES. Mr. President, out of order, I send to the desk an amendment to H. R. 10986, the Defense Department appropriation bill, and I should like to take a minute to explain it.

The PRESIDING OFFICER. Without objection, the Senator from New Hampshire may proceed.

Mr. BRIDGES. Mr. President, the amendment which I send to the desk is an amendment to the Defense Department appropriation bill, H. R. 10986, and applies to the Air Force.

The other day, at the meeting of the Committee on Appropriations, an amendment was offered to increase by $1,160,000 the amount provided by the House for the Air Force. That amendment was adopted in committee by a 1-vote margin. The amendment which I have submitted is sponsored by the Senator from Virginia [Mr. BYRD], the Senator from Louisiana [Mr. ELLENDER], the Senator from Florida [Mr. HOLLAND], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from California [Mr. KNOWLAND].

This amendment will be offered as a substitute for the committee amendment. It constitutes an increase of $500 million over the amount provided by the House, of which $350 million is for the procurement of new planes, $100 million for research, and the remainder for maintenance, operation, and personnel. Those are the fields in which the Air Force can use funds to a greater degree than in any other fields. We believe the increase suggested will meet the needs which can be foreseen at this time, and at the proper time on Monday next we shall call up the amendment as a substitute for the committee amendment.

The PRESIDING OFFICER. The amendment offered by the Senator from New Hampshire will be received, printed, and will lie on the table.

Mr. JOHNSON of Texas. Mr. President, will the Senator from New Hampshire yield?

Mr. BRIDGES. I yield.

Mr. JOHNSON of Texas. Do I correctly understand that the Senator's amendment will, instead of the amount which was voted for yesterday by the committee, increase the House amount by $500 million?

Mr. BRIDGES. That is correct.

Mr. JOHNSON of Texas. The Senator from New Hampshire is a very able and respected political strategist, and I wish to commend him for his effort. If he should come up with $500 million in one day, and if we accept it at the time we vote on the Defense Department appropriation bill, we will greatly increase the figures in that bill. I wonder if the Senator has in mind offering a similar amendment to the foreign-aid bill.

Mr. BRIDGES. No. First, I wish to thank the Senator from Texas for his words of commendation and to say that I feel the same with reference to him. At the moment I have no proposal to offer any amendment to increase appropriations contained in the foreign-aid bill. I shall limit my activities next Monday to this particular amendment.

Mr. JOHNSON of Texas. I thank the Senator. The Senator has always been for defense and adequate preparedness. I hope the Senator will go along with the full committee.

Mr. CHAVEZ. Mr. President, will the Senator from New Hampshire yield?

Mr. BRIDGES. I yield.

Mr. CHAVEZ. Mr. President, no one has greater respect for the Senator from New Hampshire than I have. I am chairman of the Subcommittee on Defense Department Appropriations. Of course, the Senator from New Hampshire has the right and the privilege of offering an amendment, but I assure the Senator that, so far as the Senator from New Mexico is concerned, he will not take the amendment to conference. Indeed, the Senator from New Mexico will take his chances in the United States Senate for adequate American defense.

Mr. BRIDGES. I thank the Senator. The purpose of the amendment is to present to the Senate an opportunity to consider an amount which represents a more balanced and adequate approach to national defense than presented by the committee amendment.

Mr. JOHNSON of Texas. Mr. President, will the Senator from New Hampshire yield?

Mr. BRIDGES. I yield.

Mr. JOHNSON of Texas. Does this amendment have the approval of the Defense Department and the administration?

Mr. BRIDGES. I cannot say that it has the approval of the Defense Department and the administration. I would say that the administration and the Defense Department have knowledge of its being offered, but I could not say it has their approval, because I cannot act as spokesman for either the Defense Department or the administration.

Mr. JOHNSON of Texas. The Senator is a very worthy and able spokesman, but if he is going to ask the Senate to increase the appropriation contained in the Defense Department appropriation bill by $500 million over and above the estimate, I should think he would want to know how the proposal will be received by the Defense Department and the administration. The Senator will recall that during a Democratic administration once upon a time we increased funds for the Air Force, and they were impounded. Does the Senator have any assurance that that action will not be repeated this time?

Mr. BRIDGES. I have a belief that if our amendment is adopted in place of the committee amendment it will be more in line with the requirements and the possible use of funds for pointing up our national defense effort and that the administration and the Department will endeavor in good faith to make use of the money. I feel that in arriving at this figure of an additional $500 million, having looked into the items of procurement of airplanes, research, maintenance and operation, and personnel we have chosen items which offer a greater opportunity of realization in improving our national defense.

Mr. JOHNSON of Texas. I wish to congratulate the Senator on improving his position at least $500 million overnight. I wish to congratulate him on getting the administration to go along with that position. I am always reluctant to disagree with my friend in the field of defense, because no one is more concerned with his country's security than is the Senator from New Hampshire. I hope the study he gave this question is indicative of, perhaps, a study over the weekend which may induce him to go along with the committee. At least, I wish to congratulate him on the progress he has made.

Mr. CHAVEZ. Mr. President, will the Senator from New Hampshire yield further?

Mr. BRIDGES. I yield.

Mr. CHAVEZ. Mr. President, General LeMay is in charge of the Strategic Air Command. He is the one who has been entrusted by the Federal Government in connection with offensive or defensive enterprises. If we had adopted General LeMay's recommendation we would have recommended $3,800,000,000, but the committee, after due consideration of the need of the Nation for national defense, made its recommendations, and I believe that when the Senate meets on Monday, or when we vote on this particular item, the Senate will take care of it in the proper manner.

I know the Senator from Florida was against it, but it just happened that there were some who were also interested in national defense on the Republican side. I believe the Senate will sustain the committee.

Mr. HOLLAND. Mr. President, will the Senator from New Hampshire yield?

Mr. BRIDGES. I yield.

Mr. HOLLAND. Mr. President, since the Senator from New Mexico has mentioned the Senator from Florida in this matter, I wish to make it very clear that I was against the amendment in committee. So were 11 other Senators, because, as I recall, the vote was 13 to 12. The vote was bipartisan. I do not think all the patriotism resides either in my good friend the Senator from New Mexico or in any other Senator. I believe I am now the only Member of the Senate who participated in combat with the Air Force in World War I. It was in a very modest way however.

I am greatly interested in the Air Force, but when I looked at the figures I found there was a $2.9 billion carryover of unobligated funds, and a total of around $9 billion of obligated but unexpended funds, all in the same field of furnishing new airplanes.

When I looked at the budget figure it was something over $6 billion, and I felt that there would not be any possibility of expending all the amount allowed by the budget, plus that carried over as unobligated and unexpended funds from the fiscal year 1956. That was my reason for opposing an increase of more than $1 billion for this purpose, which was approved by a vote of 13 to 12 by the Appropriations Committee.

I regret that my good friend from New Mexico saw fit to make some comment as if he thought I was taking an unusual position. I have been supporting the Air Force for a long time, and shall continue to do so. I do not yield to my friend from New Mexico or anyone else in my belief in the necessity of supporting the Air Force. I feel that the proposed amendment, in which I have joined along with the senior Senator from Virginia [Mr. BYRD] and the senior Senator from Louisiana [Mr. ELLENDER], both of whom are just as good friends of the Air Force and just as good patriots as is the distinguished Senator from New Mexico, is a good amendment, and I do not think this is the occasion for intimate, sharp, unnecessary, and critical remarks on the floor of the Senate, even by my good friend, the distinguished Senator from New Mexico.

Mr. CHAVEZ. I am not asking the permission of the Senator from Florida to use my own judgment as to what I think should be done for the security of the country.

Mr. HOLLAND. I am very sure that that is the case.

Mr. CHAVEZ. I swore, just as did the Senator from Florida, to perform my duties in the Senate as I saw them.

Mr. HOLLAND. I am very sure that that is true.

Mr. CHAVEZ. It is my purpose to carry on in that way.

Mr. HOLLAND. But the Senator from Florida did not bring the Senator from New Mexico into this discussion. The Senator from New Mexico brought the Senator from Florida into it in a way that the Senator from Florida regarded as unfair, and which he resented, because the Senator from Florida has fought on four fronts as a member of the Air Force, and he has no apology to make to his good friend from New Mexico, or to anyone else, for his interest in the Air Force.

Mr. CHAVEZ. Of course.

Mr. HOLLAND. Let us have a clear understanding as to that.

Mr. CHAVEZ. The Senator from Florida does not have to apologize to me or to anybody else. I have observed the Senator from Florida on the floor, and I have always respected his judgment. I have not always agreed with it. I have thought that sometimes the Senator from Florida should belong to the other side of the aisle, rather than to this side. Nevertheless, I have respected his judgment, and I do respect his judgment.

In this particular instance, the vote was 13 to 12. That is true. The Senator from Florida, the Senator from Virginia, and the Senator from Louisiana voted against the amendment which has been submitted.

The Senator from Louisiana—I know him; we all know him—not only on this bill, but on every other bill, feels that we are spending too much money. There is no question whatsoever about that.

But irrespective of my respect for the judgment of the Senator from Florida and the Senator from Virginia—and I love them both—I really do—I have my doubts whether their judgment was sound as concerns protection in what might be an emergency. General LeMay told us that Russia was way ahead of us.

I might ask the Senator if he is for the amendment which has been submitted, what made him change his view, if he was not so sure?

Mr. HOLLAND. If the Senator from New Mexico had been listening carefully, he would have heard the Senator from New Hampshire say that the Senator from Florida was one of the sponsors of the amendment. The Senator from

Florida joined in offering the amendment because he understands that perhaps it will be acceptable to the majority of the Senate and perhaps it will be acceptable to the executive branch of the Government.

The Senator from Florida is one of those who saw this occasion rise during the last administration, when Senators and Representatives alike voted an increase for the Air Force, but the Chief Executive saw fit not to accept it and did not use it. The Senator from Florida knows that that is a possibility this time, the same as it was before. He is trying to bring some understanding into the matter.

Again, he says he does not see any excuse or any reason available to the Senator from New Mexico to have brought the name of the Senator from Florida into the discussion.

Mr. CHAVEZ. I call the attention of the Senator from Florida to the fact that I respect the President of the United States. But the President has one chore to do; he has one function to perform. Congress has another function to perform. I am trying to act in the Senate according to the oath of office which all Senators take.

Mr. HOLLAND. The Senator from Florida is sure of that.

Mr. CHAVEZ. I do not try to legislate according to administrative recommendation. I take my oath to heart. I think that we in the Senate, as also the Members of the House of Representatives, have a responsibility which is far and away different from that of the Executive. That is the only reason why I recommended the amendment which was adopted by the committee. I favored the amendment.

If I had had my way with the committee, I would have favored the whole $3,800,000,000 which General LeMay recommended. He knows what the situation is.

I understand the viewpoints of the departments and of the Budget Bureau. I consider and respect and give consideration to the proposals of the Budget Bureau. But, after all, who is it who defends the country when an emergency comes? It is not the white-collar workers in the Budget Bureau or in the Pentagon. It is not the Secretary or the Assistant Secretary of Defense. When an emergency comes, we depend on the LeMays, the Twinings, the Burkes, and the Taylors. They are the ones on whom we depend.

We were only trying to do what the military wanted to have done. This happened in the committee. If those men had not been afraid to talk in front of the white-collar workers who were listening to them, they would have told us the truth. Even General Twining, speaking about the recommendation made by the Bureau of the Budget, very coyly said that this is an austere budget. What he really wanted to tell us was that it was not enough. But he was working under orders. As a good soldier, he has to obey orders.

I know the practice which is followed. They tell us in private that they want $1 billion, but they do not dare say so before the committee, because somebody is watching and listening to them.

Who will take care of the Nation when a war comes? Will it be the white collar men in the Pentagon? Will it be the Secretary of Defense or the Assistant Secretaries of the Navy, the Army, and the Air Corps? Or will it be the LeMays, the Twinings, the Burkes, and the Taylors?

But we shall take that up next week. If in any way I seemed to be offensive, I assure the Senator from Florida that I did not mean to be.

Mr. HOLLAND. I appreciate that comment. So far as the Senator from Florida is concerned, he knows perfectly well that the Senator from New Mexico took the position he took in the committee because he believed in it. He stated it frankly; he did not hedge on it.

The Senator from Florida would never have made any statement about the matter at all except that he thought the comments made gratuitously by the Senator from New Mexico about the Senator from Florida were unnecessary and unkind.

Mr. CHAVEZ. I apologize to the Senator from Florida.

Mr. HOLLAND. I accept the apology.

Mr. BRIDGES. Mr. President, to finish the colloquy, a question has been raised by certain able Senators on the floor as to the good faith of the administration and the Department of Defense in carrying out the will of Congress if the $500 million amendment shall be adopted.

I believe the administration will act in good faith.

The only experience I have had in which the Department of Defense did not act in good faith was a few years ago when Mr. Truman was President. Congress appropriated substantial sums for the Air Force, but the funds were impounded by President Truman against the wishes of Congress. They were held in an impounded condition and were not spent.

I do not think that will occur at this time. Certainly so far as my own humble efforts are concerned, any influence or persuasion which I may be able to bring to bear will be to make certain that the administration carries out the intent of Congress.

Mr. SYMINGTON. Mr. President, I was much interested in what the distinguished senior Senator from New Hampshire said. Perhaps he remembers a speech which the then General Eisenhower made on September 25, 1952, in Baltimore. In that talk he criticized, by implication, the impounding of funds to which the distinguished Senator has referred.

As I remember, last year the Congress decided that it would like to keep Marine volunteers in the service, at a time when the Congress was approving the drafting of boys from the farms and out of the cities, boys who did not want to go into the service in peacetime.

As I remember, after the $42 million had been appropriated to that end, and the Senator from New Hampshire will correct me if I am wrong—President Eisenhower not only impounded those moneys, but let the Secretary of Defense try to use a part of them for his own office.

I believe it is fair to ask if the distinguished Senator knows the amount of production of B–52's this year. It is easy to criticise unobligated funds, and lack of expenditures; but one of the best ways to avoid fiscal problems, incident to our security in this troubled world is to hold back on aircraft production, and in that way obtain unobligated funds. Then, it can be said that we do not need more appropriations because we already have excess money unobligated, and therefore unexpended.

Of all the surprises recently, with respect to this so-called big business administration, the biggest surprise is with relation to the production of B–52's, especially after all this talk about increased production.

Mr. BRIDGES. Let me say in answer, if the Senator from Texas will yield to me——

Mr. JOHNSON of Texas. I should like to interject to say that the Senator from Texas has not questioned the good faith of anyone. The Senator from Texas does not operate that way. The Senator from Texas asked for information from the Senator from New Hampshire. He wanted to ascertain if his amendment had the approval of the executive branch, the President and the Defense Department. All the Senator from Texas was seeking was information.

Mr. BRIDGES. The Senator from New Hampshire certainly did not intend to put words in the mouth of the Senator from Texas. The Senator from New Hampshire knows the Senator from Texas always acts in good faith, and expects all of us to do the same. But the question was raised, and the Senator from New Hampshire answered it to the best of his knowledge and ability.

Mr. JOHNSON of Texas. The answer of the Senator from New Hampshire was very pleasing. If we get assurance that we shall get an increase of $500 million, maybe over the weekend we shall get the whole $1 billion. It would be reassuring to know that that amount would go to the production of B–52's, which we need.

Mr. BRIDGES. Let me say to the Senator from Missouri [Mr. SYMINGTON], who raised the question of what was done with respect to the Marines last year, the Senator from New Hampshire is not at the moment familiar with all of the details, but he is going to study the matter, so that when the question comes up on Monday, he will be able to discuss it. Frankly, I do not know the details, but if the administration has withheld or impounded funds, I do not approve of it any more than I did Mr. Truman's impounding of funds. I want to say that, at the least, I am consistent.

Secondly, in answer to the Senator from Missouri, I should like to say that the Senator from New Hampshire thinks, with respect to the special committee of which the Senator is the chairman, that the defense and the security of the United States are the most sacred possessions of the American people, and they should be the most sacred possessions of everybody in the free world.

These possessions should be the greatest hope of everybody in the slave world. For that reason, the Senator from New Hampshire is very happy and glad that the Senator from Missouri is looking into the question, and that he is doing it in such a thorough manner. While the Senator from New Hampshire may not always agree with everything the Senator from Missouri advocates, he is sure that the Senator from Missouri is proceeding with the best interests of his country at heart. I think some good will come from the investigation with regard to the strengthening of the defenses of the country.

Mr. SYMINGTON. Mr. President, will the Senator from Texas yield?

Mr. JOHNSON of Texas. I yield.

Mr. SYMINGTON. I thank my good friend from New Hampshire for his kind remarks. There is no man on the floor of the Senate, on either side of the aisle, who takes more of an interest in the security of the United States, in his mind and heart than does the distinguished Senator from New Hampshire.

With respect to the amendment regarding the Marines, one of the more unfortunate aspects of that impounding was that the money impounded was the result of a floor amendment, offered to prevent the Marine Corps from being further reduced.

Mr. JOHNSON of Texas. Mr. President, I desire to make my position perfectly clear. No Member of this body has been more interested in the preparedness of this Nation than has the Senator from New Hampshire. He has worked long, faithfully, and diligently to see that the United States had adequate defenses. I did not rise to criticize him, or to question his good faith, or the good faith of anyone. I rose to congratulate and commend him. Anyone who can increase the budget by $500 million overnight, and get men like the Senator from Virginia [Mr. BYRD], the Senator from Florida [Mr. HOLLAND], and the Senator from Louisiana [Mr. ELLENDER] to go along with him on an amendment increasing the budget figure by $500 million in 24 hours excites my admiration. While I hope the Senator will continue his efforts along that line to the point where he finally will get in line with the views of the majority of the committee, I shall not criticize him if he does not go along with those views. I appreciate the concession he has made. While I recognize it as a brilliant strategic move, I do not want the RECORD to indicate that I have any doubt about either the patriotism or the good judgment of my friend from New Hampshire.

Mr. THYE. Mr. President, will the Senator yield?

Mr. JOHNSON of Texas. I yield.

Mr. THYE. I was one who voted against the increase in the military appropriation bill. I believe we can advance too rapidly in the production of B–52's which might be produced or manufactured in a given year. If some of us had yielded to the recommendation that we increase the number of wings of B–36's, we would have today a large inventory of obsolete planes. There was wisdom in opposition to increasing the number of B–36's at the time the increase was advocated on the floor of the Senate.

We know that the B–52 is not the perfect airplane that engineers and designers are hopeful of designing. We know that there will be new planes in the future. We know, however, that the guided missile question is the most important one with which the United States Government is faced, if it is to have an adequate defense, and if it is to keep abreast of developments in some other countries.

I stated in committee that I was going to oppose the amendment to increase the appropriation above the Budget Bureau's recommendation; but I said that if anyone could justify the expenditure of more funds in the research and in the development of guided missiles, he would have my vote. I have searched for a way, during a study of the appropriation, to determine how I could assist in bringing about an expansion of the guided-missile program. If that way can be developed between now and the time we cast our votes on the bill, Senators will find me voting for an increase of $1 billion, if anyone can prove or justify that the $1 billion can be expended to improve our present and future plans for guided missiles.

For that reason, Mr. President, there might be some justification for scrutinizing carefully a proposal to expand appropriations for the purchase of B–52's which will come off the assembly lines this calendar year or in early 1957. If the guided missile ever is perfected so that it will have the ability to strike effectively its objective or target, even the B–52, or any plane conceivably to be built in the near future, will be as a stationary target in the heavens. For that reason, I am studying and endeavoring to determine whether I can assist in the defense of my country by advocating an increase in appropriations in the guided-missile field, because in that direction lies the new development for the defense of the United States.

Mr. JOHNSON of Texas. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I shall be glad to yield. In fact, the Senator from Texas had the floor. He yielded to me.

Mr. JOHNSON of Texas. Does the Senator from Minnesota favor the amendment offered by the Senator from New Hampshire?

Mr. THYE. I will say to my distinguished friend from Texas that the amendment was as much of a surprise to me as it was to the majority leader when it was offered.

Mr. JOHNSON of Texas. I have nothing but the greatest respect for the patriotism of the Senator from Minnesota and for his sound judgment. If the Senator from New Hampshire could improve his position by $500 million overnight, I wonder whether perhaps the Senator from Minnesota might go along with him, and thus we would make some progress.

Mr. THYE. I am still in the process of trying to acquaint myself with all the facts relating to our national defense. I have not been able to attend all the committee hearings I should like to have attended, because we have had to divide our time in the Senate among several assignments. But I believe that the best and the soundest source of information upon which I could rely was, first, the Joint Chiefs of Staff, after they had made a complete study of all facts relating to our national-defense objectives; and, second, the President of the United States, after he had arrived at his objectives for our national defense. So I felt justified in following their recommendations.

Mr. JOHNSON of Texas. Does the Senator from Minnesota understand that the Joint Chiefs of Staff and the President have endorsed this $500 million increase?

Mr. THYE. I do not understand that, because I became acquainted with this matter only when it was brought up on the floor of the Senate, just at the time when the majority leader became acquainted with it.

Mr. JOHNSON of Texas. Mr. President, if the Senator from Minnesota will yield, I should like to ask the Senator from New Hampshire [Mr. BRIDGES] whether the $500 million increase he has proposed has the approval of the Joint Chiefs of Staff.

Mr. THYE. I yield.

Mr. BRIDGES. I cannot say as to their approval. However, they have knowledge that it has been proposed. I cannot speak for many other persons in this country; I can speak only for myself.

I would say that they have knowledge of the submission of the amendment, but I cannot speak for them.

Mr. JOHNSON of Texas. Does the Senator from New Hampshire care to state whether they look with favor or with disfavor upon it?

Mr. BRIDGES. I would say they look with favor upon it, as compared to the amendment of the Senator from New Mexico.

Mr. JOHNSON of Texas. I see.

Mr. MUNDT. Mr. President, let me say to the distinguished majority leader that, like the distinguished Senator from Minnesota, I, too, was one of the members of the Appropriations Committee included in the 12 who voted against the proposal to increase by approximately $1 billion the House appropriation for this purpose. I did so primarily because I was impressed by the fact that in preparing to produce aircraft, we must constantly be on the alert against obsolescence. I did so because I realize that new prototype planes are constantly coming off the line, and some are getting ready for actual production. However, I did so with the feeling that someone—perhaps the majority leader himself—might make a motion for a small increase. Of course, the vote was taken on another question, so it was not necessary to make the other motion. But had the other motion been made and had it prevailed, I think perhaps it might have been the majority leader himself who would have suggested the $500 million amount, because inasmuch as not only Members of Congress but even persons in uniform disagree about this item, there is always room for making a compromise.

I have been impressed by the views of those who believe that we should increase the amount of money we make available for this purpose; but I think an increase of $1 billion in the funds made available for continuation of the production of planes which might become obsolescent might be too much. So I am happy that this compromise proposal has been made. In fact, I have been stimulated to the point where I should like to ask permission of the authors of the compromise amendment to join them in sponsoring the amendment, if it is possible for that to be done.

Mr. BRIDGES. Mr. President, we shall be happy to have any other Senators join in sponsoring the amendment, which was rather hastily prepared this afternoon. Certainly it would be consistent with the general attitude of the Senator from South Dakota [Mr. MUNDT] for him to join in sponsoring the amendment.

Mr. MUNDT. Let me say that the Senator from South Dakota also had a rather quick conversion overnight.

Mr. JOHNSON of Texas. Mr. President, I have seen my friend, the Senator from South Dakota, have some quick conversions before. He always acts in accordance with the information before him and on the basis of what in his honest judgment is in the best interests of the Nation. I would be the last Member of the Senate ever to question the motives of the distinguished Senator from South Dakota.

But I wish to observe that this evening the Senator from South Dakota is in a position $500 million better than the one he was in last night. If in the future the Senator from South Dakota is able to improve his position that rapidly, he is to be congratulated. The Senator from Texas hopes that on Monday the Senator from South Dakota will find it possible to go along with the committee.

I do not question the propriety of the Senator from South Dakota in raising his sights by $500 million. Perhaps by Monday he will decide that he can raise his sights to the extent of another $500 million. Who is there to say that after today, Wednesday, Thursday, Friday, Saturday, and Sunday, he will not be able to raise his sights by $1 billion?

Mr. MUNDT. Mr. President, I hope the majority leader is not too optimistic that I shall bite off another $500 million chunk by next Monday or Tuesday, because although I think sometimes it is proper for one to change his mind, yet I also have a few mucilaginous qualities which make me reluctant to move too quickly about matters concerning which I am not certain.

However, let me point out that on August 26, 1949, as appears in the CONGRESSIONAL RECORD, volume 95, part 9, page 12315, we had a similar controversy on the floor of the Senate. At that time a proposal was made to decrease by $500 million the funds required for a 70-group Air Force. I was 1 of 9 Members of the Senate who were recorded on the yea-and-nay vote as being in support of a 70-group Air Force and in support of an additional $500 million appropriation at that time. All that is to be found in the RECORD. Although later President Truman found it expedient to impound the money and not to spend it, yet I have felt that, throughout, the Air Force was important to our Natoin, although I recognize that it is not always efficient to spend hundreds of millions of dollars on a certain type of plane at a certain time.

Mr. JOHNSON of Texas. Mr. President, I recall the vote to which the Senator has referred. I do not raise the question that the Senator from South Dakota is a recent convert or is acting against his best judgment. I commend him for the judgment he is exercising this evening. Neither do I question the judgment he exercised yesterday. I express the hope—perhaps it is optimistic on my part, but when I am dealing with my friend, the Senator from South Dakota, I am always optimistic—that when the Senator from South Dakota reviews the entire matter on Monday next, he will be willing to take off another bite, after the bite of $500 million that he has digested today.

Mr. MUNDT. I reciprocate the optimism of the Senator from Texas, and express the hope that by next week the Senator from Texas will conclude that this $500 million is the optimum figure.

Mr. JOHNSON of Texas. That could be.

Mr. MUNDT. The Senator from Texas is not a spend-easy Member of the Senate, and I think that certain measures of economy register as well with him as they do with other Members of the Senate.

Mr. JOHNSON of Texas. Certainly I have not closed my mind on the subject.

Mr. DWORSHAK. Mr. President, I recognize that, as a member of the Appropriations Committee, the Senator from Texas is very well informed on the appropriations matters that come before this body.

However, Mr. President, I wish to state that, as one member of the Appropriations Committee, I have neither a confession nor an apology to make for the position I took on the Appropriations Committee.

Mr. JOHNSON of Texas. I am not asking any Senator to confess or to apologize, Mr. President. I congratulated my friend, the Senator from New Hampshire [Mr. BRIDGES], for the brilliant strategy he displayed here this afternoon. I have not questioned the motives of any Senator, and I do not want the record by implication or otherwise to indicate that I am calling upon any of my colleagues to confess. They have nothing to confess; the record is an open book.

Mr. DWORSHAK. I merely wish the record to show that because I was busily engaged in discharging my duties as a member of several subcommittees of the Appropriations Committee, at hearings which have been held during the past several weeks, I did not attend all the hearings of this subcommittee and did not hear the testimony of all the witnesses, including the Secretary of Defense, the Assistant Secretaries, and the Chiefs of Staff. However, I did hear General LeMay testify for 2 hours. Although there may be in the printed hearings of the Appropriations Committee which were released yesterday something which might justify the contention that if we are gradually losing air supremacy to the Soviets, it may be because the Congress has been derelict in making available the funds with which to procure B–47's or B–52's, yet I wish to point out—I do not know that it is necessary, because I am sure the majority leader is aware of what revelations are made in the printed hearings—that the record shows that $15 billion was appropriated by the Congress for the Air Force to operate and to procure planes during the fiscal year which will end within a couple of weeks.

At this point I should like to read a United Press dispatch dated 5:41 p. m. today, which I took from the bulletin board. The dispatch refers to General LeMay's testimony before the Appropriations Subcommittee, wherein he said that because we were gradually losing out on air supremacy, we should have a large increase in the funds made available for planes. The last paragraph of the United Press dispatch is as follows:

> General Twining, testifying at another closed door session of the subcommittee the same day, said the air procurement program is "satisfactory." Twining said that if he got more money, he would put it into bases and personnel, not planes.

If the Senator will further yield, so far as I am concerned, that verifies my reactions after listening to the testimony of the various witnesses before our committee.

Furthermore, I do not think we are justified in creating the impression—and I do not think it is being done deliberately or with any intention of misrepresentation—that if the Congress were to appropriate the $3,800,000,000 which General LeMay thought he should have for the Strategic Air Command, or if we were to double the $15 billion which the Air Force had this year, the next morning we would wake up and find a very brilliant array of B–52's, without bases from which to operate them, and without personnel with which to operate them.

So far as the Senator from Idaho is concerned, he merely wishes to rely upon the testimony before the Appropriations Subcommittee, that it is not the lack of funds or the lack of procurement of modern planes that may be responsible for our gradual loss of air supremacy to the Soviets. Adequate funds have been appropriated, and if there is any lack of national defense so far as our Air Force is concerned, it is not because the Congress has been unwilling to make available every dollar which is essential for the operation of our Defense Establishment. The record is clear on that point; and until we can develop personnel and build bases, I think it is idle for us to contend that if we were to appropriate an additional billion, or an additional $5 billion, we could then tell the American people to become complacent, because everything had been done to guarantee that we should not lose air supremacy to the Soviets.

Mr. JOHNSON of Texas. Mr. President, I have not criticized the Senator

from Idaho, and I do not criticize any of the Senator's acts. Who am I to pass judgment on the acts of my colleagues? They are all as concerned with the security of their country as is the Senator from Texas. Perhaps some of them have more information about what is necessary to maintain it than has the Senator from Texas.

The Senator from Texas desires to leave no false impression with anyone. General LeMay recommended an expenditure of $3,800,000,000. The committee, after hearing him, decided to recommend an increase of only $1 billion of that $3,800,000,000. The distinguished ranking minority member of the Armed Services Committee and the distinguished chairman of the Republican policy committee, after sleeping over it, have come up with an amendment to increase by $500 million the amount voted by the House.

The Senator from Texas rose merely to commend the Senator from New Hampshire on the progress he had made.

I did not intend to stir up a hornet's nest. I did not intend to criticize any of my colleagues.

The Senator from Texas wishes to commend the Senator from New Hampshire for the action he has taken. If he can do as well over the weekend as he has done overnight, we shall not require much time on Monday to pass the bill.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. JOHNSTON of Texas. I yield.

Mr. SYMINGTON. In 1953 the late Gen. Hoyt Vandenberg warned the Senate that if personnel, skilled people, were cut as planned then, it would make no difference whether or not the Air Force got the planes, because they would not have the personnel with which to operate them properly.

I have remained out of this money discussion, and plan to stay out of it as our subcommittee continues to try to get the truth, without clouding it with discussions about current appropriations.

I regret some of the remarks made by my distinguished friend the senior Senator from Minnesota [Mr. THYE]. It is always a pleasure to discuss air power with him. He says the B–36 is obsolete. Inasmuch as, with the exception of perhaps one wing of B–52's, the B–36 is the only intercontinental bomber this country has, that might be a harsh term.

The Senator also warns against producing B–52's in excess quantities, because we might find ourselves in the same position with respect to B–52's as we are now with respect to B–36's—in other words, more obsolete planes.

I have seen the latest figures with respect to B–52 production. The Senator need not worry about any overproduction of B–52's. In fact, one of the chief reasons we may be talking about unobligated funds is that it would be ridiculous for the Government to pay for planes until they had been accepted.

I hope also we shall not be misled, from the standpoint of the future, in overemphasizing the guided missile program. The Secretary of Defense is responsible for the statement there will not be any guided missiles for years to come which will take the place of piloted aircraft. I hope we shall not allow ourselves to get into a state of mind which will result in this country finding itself, in the middle 1950's in the same position England and France found themselves with respect to the Nazis in the middle thirties. It was this kind of talk in her Parliament, that resulted in the British being placed in an impossible situation.

Mr. THYE. Mr. President, will the Senator yield?

Mr. JOHNSON of Texas. I yield.

Mr. THYE. No one could have a higher regard for any Member of the United States Senate than I have for the distinguished Senator from Missouri. I knew him when he was Secretary of Air. I had great respect for him then, and I have great respect for him now.

I would challenge anyone who might maintain that the B–36 is everything we desire in an air defense unit as of today. We know that we are striving to perfect even the B–52's, and we know that the B–52 is far superior to the B–36.

Therefore I must reiterate my statement that if we had produced a greater number of B–36's in 1953 and 1954 than we did, we would have inventories today which would not be the most desirable in defense equipment.

The B–52 will not be the most desirable plane in years to come. That is a certainty. I asked Secretary of Defense Wilson, in a committee hearing, whether we had the plant facilities and the personnel to step up production if an emergency demanded increased production. I received the assurance that we did have.

I have been inside the plants, and I have asked the same question of the superintendents and the plant managers. If an emergency called for it, and if we needed to step up production to a basis of 24 hours daily production, we could produce more B–52's than we are now manufacturing. That is the important phase of our defense, namely, our ability to expand if the emergency calls for it. However, if the emergency does not call for it, we would not be wise in our action if we were in this calendar year to fill up our depots with equipment which might be in an obsolete state in the next year or so.

Mr. JOHNSON of Texas. Mr. President, I will say to my good friend from Minnesota that if we were to follow that line of reasoning to its logical conclusion, we would not buy any B–52's. We are not getting delivery on many of them now.

Mr. THYE. Oh, the Senator knows better than to make that kind of statement. I must say that in all fairness.

Mr. JOHNSON of Texas. A great deal of work must be done before an airplane is actually built. In the meantime it may well become obsolete. That is due to the inventive genius of our country.

Mr. President, last night we were a billion dollars apart. The Senator from Texas is one who believes in the old saying that a man's judgment is no better than his information.

Mr. THYE. Mr. President, will the Senator yield?

Mr. JOHNSON of Texas. The Senator from Texas wishes to finish his sentence first.

Evidently, the information which has been made available since the committee voted on the matter yesterday has brought some of our friends to the conclusion that wisdom dictates a change of $500 million in their position. The Senator from Texas is pleased with the progress we are making. He expresses the hope that his very good friend from Minnesota will join him. If he does not wish to join the Senator from Texas, at least the Senator from Texas hopes that he will join his friend the Senator from New Hampshire [Mr. BRIDGES], in voting for a $500 million increase. The judgment of the Senator from Texas is not infallible, of course, and it may be that his friend from New Hampshire has a better figure than he has.

The Senator from Texas has learned over the years to have very great respect for the judgment of the Senator from New Hampshire and for his colleagues on the other side of the aisle. He expresses the hope that the Senator from Minnesota [Mr. THYE] will join with them, if he cannot join the Senator from Texas. If the Senator from Minnesota cannot go all the way, the Senator from Texas hopes he will go a part of the way, and that perhaps in the days to come we will finally arrive at an area in which we can reach an agreement.

Mr. THYE. A westerner, when he saw a vicious prairie fire sweeping across the plains, would usually start a backfire. That was the safest way for him to protect himself and his property. It may be that the action of the distinguished Senator from New Hampshire and his colleagues is by way of a little backfire so as to save the Nation's Treasury.

Mr. JOHNSON of Texas. I would not associate myself with any such viewpoint as has been expressed by the Senator from Minnesota. I do not attribute any such motive to the Senator from New Hampshire.

Mr. President, I ask unanimous consent that the clerk may read the amendment submitted by the Senator from New Hampshire, so that we may at least be informed of all its implications.

The PRESIDING OFFICER. Without objection, the clerk will read as requested.

The LEGISLATIVE CLERK. It is proposed on page 23, line 17, in lieu of "$6,848,500,000" insert "$6,398,500,000."

On page 26, line 4, in lieu of "$3,780,185,000" insert "$3,770,185,000."

On page 29, strike out lines 14–19, inclusive.

Mr. JOHNSON of Texas. The Senator from Texas wishes to conclude his statement at this point by saying that he much prefers the committee's action to the suggested amendment of the Senator from New Hampshire.

If the Senate, in its wisdom, is unable to go along with the committee's amendment, he certainly hopes that the Senate will go along with the figure proposed by his friend from New Hampshire.

Mr. SYMINGTON. Mr. President, the distinguished Senator from Minnesota knows there is no one in the Senate

for whom the Senator from Missouri has more affection and respect than he has for the Senator from Minnesota.

I was not criticizing the distinguished Senator from Minnesota. However, inasmuch as he is a member of the Committee on Appropriations, he is entitled to the information. I suggest that he look up the production record of B–52's for the past 6 months. If he does, he will not worry about any danger of there being too many on hand.

Mr. THYE. I know exactly what the production is, because no one could have sat through the hearings without knowing it.

Mr. SYMINGTON. Mr. President, is the Senator from Minnesota satisfied with that production?

Mr. THYE. The Senator from Minnesota is taking every factor of our defense into consideration. Each must be weighed with the other. All of it must be weighed together.

Mr. SYMINGTON. Is the Senator from Minnesota satisfied with that production?

Mr. THYE. The Senator is satisfied with the production; yes. Yes; I am.

Mr. SYMINGTON. Does the Senator feel that the Defense Department should issue B–52 schedules and then produce only a small fraction of those schedules, and then give a lot of information on missiles to the American people as solace.

Mr. THYE. The Senator is trying to confuse missiles with B–52's.

Mr. SYMINGTON. The American people are being confused about the whole defense picture.

Mr. THYE. The Senator is bringing missiles into a debate on B–52's.

Mr. JOHNSON of Texas. Mr. President, I should like to remind Senators that it is now almost 7 o'clock. We will have a general discussion of the defense appropriation bill on Thursday, and, if necessary, on Friday also. Furthermore, if Senators wish to discuss it on Saturday, we will meet on Saturday also.

We expect to discuss it further on Monday and perhaps also on Tuesday. The Senator from Texas wishes all his friends to have every right to discuss the bill as fully as they wish, and he does not desire to monopolize the conversation. However, it is now 25 minutes to 7 o'clock, and the Senator from Texas has been on his feet for a good time. If it is agreeable, he should like to have the Senate go over until tomorrow.

AMENDMENT OF DISTRICT OF COLUMBIA POLICE AND FIREMEN'S SALARY ACT OF 1953

The Senate resumed the consideration of the bill (H. R. 10060) to amend the District of Columbia Police and Firemen's Salary Act of 1953, as amended.

Mr. McNAMARA. Mr. President, the purpose of this bill is to amend the District of Columbia Police and Firemen's Salary Act of 1953, to enable the Police Department to eliminate certain administrative difficulties insofar as the pay and work periods are concerned. Prior to the act of 1953, the pay periods and the work periods for the Police force commenced on a Sunday and ended on a Saturday, making it possible for the force to be at greater strength during the peak days of police activitiy—Friday, Saturday, and Sunday—while at the same time allowing the police officers their 2 days off per week on the less active days of the week. The act of 1953, however, went into effect on July 1, 1953, a Wednesday, causing the pay periods to begin on that day and end on a Tuesday. Because of the need for greater police strength at the weekend, it is not feasible to make the police work period coincide with the pay period, and the lack of coincidence tends to create administrative difficulties in the Department and hardship for the officers.

This bill provides for a 4-day transitional pay period, June 27 through June 30, 1956. During this period, the days-off provision in existing law would be suspended, and all members of the force would be on duty. Beginning Sunday, July 1, 1956, the work period and pay period would coincide.

The cost of the bill, resulting from the additional police services during the 4-day transition period, will be approximately $25,000. Current police Department appropriation is sufficient to absorb the cost.

I should like to point out, Mr. President, that a bill which accomplishes the same objectives for the Fire Department was passed in the 83d Congress. The proposed legislation has the approval of the Commissioners of the District of Columbia.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

IMPROVEMENT OF GOVERNMENTAL BUDGETING AND ACCOUNTING METHODS AND PROCEDURES

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of S. 3897.

The PRESIDENT OFFICER. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 3897) to improve governmental budgeting and accounting methods and procedures, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

Mr. JOHNSON of Texas. Mr. President, I should like to announce that the bill was reported by the Senator from Massachusetts [Mr. KENNEDY] from the Committee on Government Operations. I am asking that the bill be made the unfinished business of the Senate. The report will be available tomorrow before the bill is considered by the Senate. I wish to have some unfinished business before the Senate.

The bill deals with the budget and the placing of the annual expenditures on an expenditure basis. The Senator from Texas does not have any further details about the bill at the moment. However, it was reported unanimously by the Committee on Government Operations. The Senator from Texas has discussed the measure with the acting minority leader, with the Senator from Maine [Mr. PAYNE], who is the author of the bill, and with the distinguished junior Senator from Massachusetts [Mr. KENNEDY], who is anxious to get action on it. It is my understanding that it carries out the recommendations of the Hoover Commission.

The report is not available at this time. The hour is late, and we do not plan to discuss the bill tonight.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

ADJOURNMENT

Mr. JOHNSON of Texas. Mr. President, I move that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 40 minutes p. m.) the Senate adjourned until tomorrow, Wednesday, June 20, 1956, at 12 o'clock meridian.

CONFIRMATION

Executive nomination confirmed by the Senate June 19, 1956:

ATOMIC ENERGY COMMISSION

Willard Frank Libby, of Illinois, to be a member of the Atomic Energy Commission, term of 5 years, expiring June 30, 1961.

HOUSE OF REPRESENTATIVES

TUESDAY, JUNE 19, 1956

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D. D., offered the following prayer:

O Thou God of majesty and mercy, constrain us now by Thy grace to approach Thy throne with a humble spirit and a contrite heart.

May we come in penitence for we have all sinned and fallen short of the glory of God but may we also come with gratitude for Thou art willing to forgive and blot out all our transgressions and remember them no more against us.

Grant that daily our life may be touched with more of the brotherly spirit which will enable us to look at struggling and suffering humanity through the eyes of clarity and consideration, of sympathy and kindness.

Help us so to live and labor that when our day is ended and our work is finished we may leave a legacy of faith and fidelity, of love and loyalty, and receive the blessings and benediction which Thou dost bestow upon the faithful.

Hear us in Christ's name. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Carrell, one of its clerks, announced that the Senate had passed without amend-